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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-180264

DATE: March 11, 1974

MATTER OF: Certification of monthly provisional vouchers concerning
cost-type contractors

DIGEST: In view of 31 U.S.C. §82c which requires certifying officer to ascertain and be held responsible for existence and correctness of facts on face of voucher and legality of requested payment, proposed EPA procedure whereby certifying officer would approve payment of provisional monthly vouchers under cost-type contracts upon making only mathematical and cumulative cost checks would not be totally acceptable, but since that certification is provisional pending thorough audit upon contract completion, we would not object to procedure which requires batch audits only as frequently as deemed necessary according to reliability of each contractor's accounting and billing procedures, but no less than annually.

This decision to the Administrator, Environmental Protection Agency (EPA) is in response to the request of the Assistant Administrator for Planning and Management, EPA. He requested the opinion of this Office with respect to the acceptability of a procedure whereby the EPA certifying officer would approve payment of monthly vouchers covering research and development services submitted by cost-type contractors without prior review by other EPA employees, provided that mathematical and cumulative cost checks are made. These payments are expressly provisional and, upon contract completion, the contractor's books and records are thoroughly audited and adjustments are made to offset any over or under payments, with a view toward final settlement on the contract.

EPA feels that it is impossible for the certifying officer or any other EPA official to determine whether provisionally claimed costs are reasonable, allocable, allowable, and actually incurred, without conducting an audit of the monthly claims (including examination of the contractor accounts, ledgers, and supporting documents).

Moreover, we are told that to process such vouchers through the contracting or project officer requires considerable time which presumably can be measured in terms of significant increases in the amount of working capital which must be obtained by EPA contractors and, hence, in higher total prices paid by EPA for the work.

However, question concerning such procedure arises in that under the provisions of 31 U.S.C. §82c, the certifying officer is responsible for "the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting papers and for the legality of the proposed payment under the appropriation or fund involved." We do not believe that EPA's proposed procedure, to permit the certifying officer to approve payment of these provisional monthly vouchers on the basis of checking only the cumulative payments in relation to total estimated cost and verifying the correctness of the mathematics on the face of the voucher, would be totally acceptable under this statute. If need for a new procedure is clearly indicated, then we believe that the approach taken by the Department of Defense (DOD) would more adequately protect the Government's interest.

We understand that DOD makes a case-by-case determination as to the frequency of audit of such vouchered claims. The Defense Contract Audit Agency (DCAA) determines the reliability of each contractor's accounting and billing procedures; then, depending upon the reliability of these procedures, DCAA performs batch audits of accumulated unaudited vouchers only as frequently as deemed necessary, but no less frequently than annually. In all cases, a final audit is performed upon the completion of a contract. This approach is used by DCAA with respect to the contracts of both DOD and those civil agencies for which DCAA provides audit services. We believe that adoption of this approach may result in savings of time and costs for processing monthly claims pursuant to EPA cost-type contracts.

Under 31 U.S.C. §82c, however, the certifying officer is held accountable for and is required to make good on any illegal, improper, or incorrect payment which results from his false, inaccurate, or misleading certification. In limited circumstances, the certifying officer's liability may be waived by the Comptroller General; e.g., where, he relied upon official records and could not have ascertained the facts by exercise of reasonable diligence, or where the obligation was incurred in good faith, the payment was not contrary to any specific statutory prohibition and the United States received value for such payment.

By the terms of the statute, the certifying officer is, subject to certain exceptions, accountable for any illegal or improper payment occasioned by his failure to use reasonable inquiry and diligence. Thus, we have held that press of work cannot relieve the certifying officer of his legal responsibilities. B-147747, Dec. 28, 1961. Nor can his responsibilities be waived by a statement by another officer as to the propriety of expenses where the nature of the expenses are unknown to the certifying officer and the official documents thereon are confidential and available only on a need-to-know basis. 49 Comp. Gen. 486 (1970). Likewise, statistical sampling methods for vouchers

and similar methods--unless authorized by law--which contain a probable error ratio will not relieve the certifying officer of his legal liability. 43 Comp. Gen. 36 (1963). We might point out that a subsequently enacted law authorized statistical sampling procedures in examination of vouchers for amounts of less than \$100. 31 U.S.C. 82b-1. ✓

In this case, adoption of either the proposed EPA or DOD procedure will involve, as the price paid for economizing on claim processing time and costs, the possibility that some mistakes on the provisional vouchers may escape detection. We stated in an earlier decision:

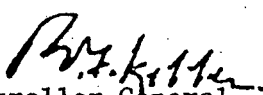
"We believe that any plan of examining vouchers prior to certification which contemplates the certification of vouchers with the knowledge that some of them--even though the particular ones are not known--contain erroneous or improper payments violates the spirit and intent, if not the letter, of the acts establishing the responsibility of certifying officers." 43 Comp. Gen. 36, (38-39 (1963)).

However, what distinguishes this situation from that in the statistical sampling cases and other cases where chance of error is present, is the fact that here there will eventually, upon contract completion, be made a complete audit of the contractors' books and records, and adjustments based upon those findings will be made if indicated. It therefore seems that what constitutes "reasonable diligence and inquiry" for provisional vouchers expressly made subject to a final audit and settlement may be different from and somewhat less than what is required on vouchers involving other than provisional payments.

This is not to say that in the certification of provisional vouchers that some degree of care and diligence need not be shown. We feel that the statute requires, at the very minimum, some kind of periodic audit of provisional vouchers to be performed. It is thus our view that DOD procedures would more nearly meet the requirements of 31 U.S.C. §82c and would better protect the certifying officer from liability than the procedure that EPA has proposed.

We trust the foregoing will be of assistance.

Deputy


Comptroller General
of the United States