

DECISION

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

*J. Vickers
Proctor*

75-38

FILE: B-192541

DATE: September 5, 1978

MATTER OF: L. G. Black - E.C.C.

DIGEST:

1. Where there is dispute between claimant and administrative agency involving question of fact and conflicting statements of claimant and administrative agency constitute only available evidence, claimant has not met burden of affirmatively proving case.
2. Government is bound by acts of agents or employees only when they act within scope of designated authority and, therefore, Government is not liable for work performed, as alleged by claimant, at request of persons who did not possess contracting authority.

L. G. Black - E.C.C. (Black) has filed an appeal to a settlement issued by our Claims Division (7-2786816) on June 15, 1978, relating to numerous invoices submitted by Black for carpet-cleaning services performed for various Federal agencies.

Invoice 7C352, dated February 22, 1977, was for carpet-cleaning services performed at Walter Reed Medical Center on February 12, 1977, and the only charge not paid on the invoice is \$96 for downtime of the cleaning crew. This amount was charged because Black's 6-man crew had to wait 2 hours before gaining admission to the building where the work was to be performed. The contracting officer disallowed this charge as the crew was to report between 10 and 10:30 a.m. to obtain the keys and an escort to the building, but did not arrive until 1:15 p.m. Black disputes this by stating it was not given a set time to arrive. Where, as here, conflicting statements of the claimant and the administrative agency constitute the

only available evidence, the claimant has not met the burden of affirmatively proving its case before our Office. Marotta Scientific Controls, Inc., B-188124, October 11, 1977. 77-2 CPD 280.

The next group of invoices for which Black's claim was denied involved charges made for anti-static treatment of carpets. The work was performed for the Defense Supply Service (DSS) at the Pentagon and DSS has taken the position that none of the purchase orders requested the antistatic treatment and antistatic treatments were not included in Black's Federal Supply Schedule contract under which the purchase orders were issued. Black argues that the point of contact for each work order, usually employees in the office to be cleaned, upon being contacted by Black, stated that the antistatic treatment was desired and, therefore, Black performed the treatment. DSS states that these individuals did not possess contracting authority and several of the points of contact denied requesting such services.

Persons who enter into contractual relationships with Government agents or employees are charged with the responsibility of accurately ascertaining the extent of their authority. Allen Business Machine Co., 55 Comp. Gen. 356, 358 (1975). Because the Government is bound by the acts of its agents only when they act within the scope of their designated authority, the Government is not liable for the cost of the anti-static treatments. 51 Comp. Gen. 162, 165 (1971).

In our Claims Division settlement certificate of June 15, 1978, we noted that all of a certain group of invoices had been paid except for two for which we noted the reasons why payment was not made. Black disputes that the stated payments were made. However, the record submitted to our Office by DSS notes the following invoices were paid on the noted dates and that DSA has a receipt signed by one of Black's employees:

<u>Invoice #</u>	<u>Date</u>	<u>Amount</u>	<u>Date Paid</u>
7P1073	2/28/77	\$31.32	5/4/77
7C379	2/28/77	20.00	5/30/77
7C431	3/24/77	20.00	5/3/77
7C675	5/31/77	34.32	6/22/77
7I444	4/5/77	20.00	7/28/77
7C314	1/31/77	20.00	3/3/77
7C423	3/8/77	20.00	7/28/77

One of the invoices not paid was for incomplete work of which Black states it never was advised. However, the record contains a letter from Black to DSS, dated March 28, 1977, in which it states that several days before it was called and advised that the job had not been completed.

In regard to an invoice for services performed at Fort Belvoir, Virginia, Black contends that we accepted the procuring agency's position without obtaining Black's views as to the facts surrounding a number of return trips Black had to make because of being refused entry into the work area to reclean a carpet. We believe the position of the claimant was fully explained in a letter dated August 31, 1977, to officials at Fort Belvoir, which Black forwarded with the initial claim to our Office. The claim is not allowable because of the conflicting statements of the administrative agency and the claimant. See Marotta Scientific Controls, Inc., supra.

Finally, Black has inquired regarding the status of several invoices sent to the Department of Justice. On June 16, 1978, our Claims Division issued a certificate of settlement approving payment of \$275.20 for invoice 7I30 and two other invoices were returned to Justice for consideration by the contracting officer under the Disputes clause of Black's contract because a question of the quality of the work performed was involved.

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For the foregoing reasons, the settlement of
the Claims Division is affirmed.

R. H. K. 11/14/41
Deputy Comptroller General
of the United States