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HENRY HUFFORD
P.L. #2

DECISION



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

FILE: B-184865

DATE: December 15, 1976

MATTER OF: Northridge Bank - Request for reconsideration

DIGEST:

1. Where Government records show that disbursement voucher was issued in payment for month's rental of equipment, no basis exists for payment of claim.
2. Leases of copying equipment to Government were invalid because Government employee who signed lease documents did not possess contracting authority, and those dealing with him were charged with responsibility of ascertaining extent of that authority. Request for rental payments beyond period for which Government had beneficial use of equipment is not allowed and payment for such use is limited to the applicable supply schedule contract.

Northridge Bank has requested reconsideration of a settlement by our Claims Division authorizing payment only in the amount of \$1,383.75 for the use of three copying machines by the Naval Air Station (NAS), Glenview, Illinois. The payment made pursuant to our settlement covered the use of three copying machines for the period May 1975 through January 1976. Our advice of payment accompanying the check explained that \$153.75, the rental payment for April 1975, was disallowed because the Navy's uncompensated use of the machines did not begin until May 1975.

Northridge contends that it holds valid leases for the machines and that the last payment by the Navy was made on March 17, 1975. Thus, it requests payment for use of the equipment from March 17, 1975, the date of the alleged last payment, until the date the equipment is returned at Government expense, which, it alleges, is called for by the leases.

In referring the claim for settlement by this Office the Navy raised a question regarding the validity of the leases but agreed that monthly payments of \$153.75, as provided in the lease documents, represented fair compensation for use of the equipment.

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Navy initially recommended that this Office approve payment at that rate for the uncompensated use of the equipment commencing in April 1975 through January 1976, when use of the equipment was discontinued. Subsequently the Navy discovered that its initial payment to the lessor was for 2 months' rent and that while only nine payments had been made it had paid for 10 months' use, that is from July 1974 through April 1975. Accordingly, we approved payment for use of the equipment only from May 1975 through January 1976.

In response to Northridge's request for reconsideration, the Navy has furnished this Office a report which identifies each of its payments by disbursement voucher number and date. This record supports the Navy's position that payments were made for the period of July 1974 through April 1975. We have advised Northridge's president of the Navy's payment records and the bank does not contest their accuracy. In the circumstances, we agree with the Navy that payment to Northridge for April 1975 would not be proper.

Northridge also claims that it is entitled to rental payments after January 1976 until such time as the equipment is returned to it at Government expense. It claims this is called for by the terms of the lease.

The record shows that the original lease documents executed in July 1974 provided for a non-cancelable term of 5 years. At the expiration of this term the lessee was required to return the equipment pursuant to lessor's instructions and at lessor's expense. Although Northridge claims that it holds a valid lease for the equipment, the Navy has advised that the individual who signed the original documents had no authority to contract for the Government. 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 Machines 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, 51 Comp. Gen. 162, 165 (1971), the Government is not bound by the purported leases.

Apparently, a Navy contracting officer subsequently attempted to validate the lease arrangement by issuing a purchase document which referenced a General Services Administration Federal Supply Schedule (FSS) Contract for the type of equipment in question. However, neither Northridge nor its predecessor in interest was

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a party to the FSS contract referenced in the Navy purchase document. With regard to supply schedule contracts, it is the position of this Office that the procurement of such supplies or services on the open market, rather than from the FSS contractor, where such procurement is due to an error on the part of Government personnel does not legally obligate the Government beyond the extent of the applicable supply contract. 52 Comp. Gen. 530, 532 (1973). In this connection, we are not aware of any provision in a schedule contract for the equipment in question which would require the Government to lease for more than a minimum period of 1 month or to return such equipment at its own expense upon termination of the lease. The record shows that Northridge's attorney was repeatedly advised that the copying machines were available for removal. Inasmuch as the Navy did not validly contract to lease and return the equipment at its own expense and since the Navy advised Northridge on the first business day of February 1976 that it did not require further use of the equipment in question and, in fact, made no use of the equipment after January 1976, we find no legal basis for approving payments for the period beyond the Government's beneficial use which terminated in January 1976.

Accordingly, the claim of Northridge is denied.


Deputy Comptroller General
of the United States