



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

October 2, 1980

B-199453

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[Recommendation for Payment Under Meritorious Claims Act]

To the Congress of the United States:

In accordance with the Meritorious Claims Act of April 10, 1928, 45 Stat. 413, 31 U.S.C. § 236, we make the following report and recommendation on the claim of Equity Advertising Agency, Inc., 810 7th Avenue, New York, N.Y. 10019, for \$19,256.94. [The claim arises from a recruitment advertisement placed in nine newspapers, listed below, through Equity Advertising by the Environmental Protection Agency without prior written approval by proper authorities.]

<u>Newspaper</u>	<u>Amount</u>
Philadelphia Inquirer	\$2,119.26
Chicago Tribune	2,917.20
San Francisco Examiner	2,305.50
Washington Post	2,874.30
Boston Globe	1,544.40
New York Times	3,790.10
Denver Post	1,081.08
Dallas News	1,123.60
Kansas City Star	1,501.50

[The claim for services rendered without a formal contract] was examined by the Procurement and Contracts Management Division of the Environmental Protection Agency and forwarded to our Claims Group for settlement. The claim [could not be certified for payment since the advertisements were placed without prior written authorization] in violation of 44 U.S.C. § 3702] which states as follows:

"Advertisements, notices, or proposals for an executive department of the Government, or for a bureau or office connected with it, may not be published in a newspaper except under written authority from the head of the department; and a bill for advertising or publication may not be paid unless there is presented with the bill a copy of the written authority."

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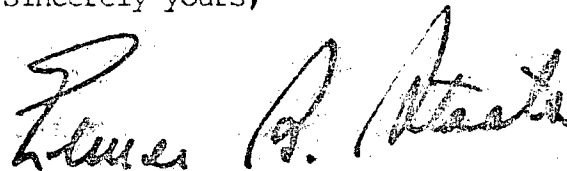
We have held in 35 Comp. Gen. 235 (1955) that these provisions do not preclude advertising in newspapers per se but only payment for the advertisement unless the proper procedures are followed. Ratification after the services have been rendered does not comply with the terms of the statute.

Although we do not generally report to the Congress, under the Act of April 10, 1928, claims which cannot be paid by reason of a prohibitory statute, we determined that because the agency had the advertisements published in good faith and the Government received benefits from them, the equities warrant reporting the claim to the Congress under the Meritorious Claims Act, with a recommendation that payment be authorized.

If the Congress agrees with our recommendation, it is suggested that enactment of a statute in substantially the following form will accomplish the desired result:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Comptroller General of the United States be, and hereby is, authorized and directed to settle and adjust the claim of Equity Advertising Agency, Inc., for advertisements published on March 23, 1980, for the Environmental Protection Agency, and to allow in full and final settlement of such claim the sum of \$19,256.94. Such amount shall be payable from the applicable appropriations of the Environmental Protection Agency."

Sincerely yours,



Comptroller General
of the United States