Text as published on gao.gov, https://www.gao.gov/products/b-226176, archived 2026-07-11. GAO published no original file for this decision. Rendered by Comptroller Desk.

[Request for Relief for Army Special Disbursing Agent]

Number: B-226176

Date: 1987-05-26

B-226176, MAY 26, 1987, OFFICE OF GENERAL COUNSEL

APPROPRIATIONS/FINANCIAL MANAGEMENT - ACCOUNTABLE OFFICERS - DISBURSING OFFICERS - ILLEGAL/IMPROPER PAYMENTS - LIABILITY RESTRICTIONS - STATUTES OF LIMITATION DIGEST: 1. IT IS NOT NECESSARY FOR OUR OFFICE TO GRANT RELIEF IN A CASE WHERE THE 3-YEAR STATUTE OF LIMITATION PERIOD HAS EXPIRED. UNDER THESE CIRCUMSTANCES, THE ACCOUNT IN QUESTION MUST BE CONSIDERED SETTLED AND THE ACCOUNTABLE OFFICER INVOLVED CANNOT BE HELD LIABLE FOR ANY ERRONEOUS PAYMENT. 31 U.S.C. SEC. 3526(C). 2. REQUEST FOR RELIEF OF ACCOUNTABLE OFFICERS LIABLE FOR IMPROPER PAYMENT SHOULD BE MADE TO GAO WITHIN 2 YEARS AFTER THE DATE THE ACCOUNT IN WHICH THE LOSS OCCURRED IS AVAILABLE TO GAO FOR AUDIT (THAT IS, THE DATE THE AGENCY HAS SUBSTANTIALLY COMPLETE ACCOUNTS).

BRIGADIER GENERAL B. W. HALL:

ON FEBRUARY 3, 1987, WE RECEIVED YOUR RELIEF REQUEST ON BEHALF OF MR. F. W. VOGELE, SPECIAL DISBURSING AGENT (SDA), DSSN 5528, U.S. ARMY ENGINEER DISTRICT, ST. PAUL, MINNESOTA, UNDER 31 U.S.C., SEC. 3527(C) FOR AN IMPROPER PAYMENT OF A $29,729.79 CHECK PAYABLE TO KATHY'S KRANES CORPORATION. IN VIEW OF THE FACT THAT THE STATUTE OF LIMITATIONS IN THIS CASE WAS DUE TO EXPIRE ON FEBRUARY 24, 1987, WE ATTEMPTED TO RAISE AN EXCEPTION TO MR. VOGELE'S ACCOUNT. THE PURPOSE OF THE NOTICE OF EXCEPTION WAS TO ALLOW US TIME TO CAREFULLY CONSIDER ALL OF THE MATERIALS SUBMITTED WITH YOUR REQUEST. ALTHOUGH THE NOTICE OF EXCEPTION WAS SIGNED ON FEBRUARY 20, DUE TO AN INTERVENING WEEKEND AND A SNOWSTORM THAT CLOSED THE FEDERAL GOVERNMENT, THE NOTICE OF EXCEPTION WAS NOT MAILED UNTIL FEBRUARY 25, 1987. IN ADDITION, DUE TO AN OVERSIGHT ON OUR PART, THE NOTICE WAS SENT UNDATED. THE DATED NOTICE OF EXCEPTION WAS NOT MAILED UNTIL MARCH 12, 1987. ACCORDINGLY, THE NOTICE OF EXCEPTION WAS TAKEN AFTER THE ACCOUNT IN QUESTION WAS SETTLED BY LAW. 31 U.S.C. SEC. 3526(A) (1982). THEREFORE, IT IS NO LONGER NECESSARY TO SEEK RELIEF FOR MR. VOGELE SINCE HE CAN NO LONGER BE HELD FINANCIALLY RESPONSIBLE FOR THIS LOSS TO THE GOVERNMENT. HIS ACCOUNT WAS SETTLED BY OPERATION OF LAW ON FEBRUARY 24, 1987, 3 YEARS AFTER THE ORIGINAL CHECK WAS ISSUED. ID. UNDER 31 U.S.C. SEC. 3526, ACCOUNTS MUST BE SETTLED WITHIN 3 YEARS OF THE DATE WHEN THE AGENCY'S ACCOUNTS WERE SUBSTANTIALLY COMPLETE AND READY FOR AUDIT. B-198451.2, SEPT. 15, 1982.

IN THIS CASE, WHEN THE $29,729.79 PAYMENT TO KATHY'S KRANES CORPORATION WAS MADE, ALL THE DOCUMENTS NECESSARY TO RAISE A CHARGE IN MR. VOGELE'S ACCOUNT WERE IN THE CORPS' POSSESSION. THE FILE WAS LABELED THAT PAYMENT WAS TO BE MADE TO THE ASSIGNEE BANK RATHER THAN TO KATHY'S KRANES CORPORATION THE SCHEDULE OF PAYMENT DOCUMENT, DA FORM 3717, INDICATED THAT AN ASSIGNMENT HAD BEEN MADE, AND 11 PREVIOUS PAYMENTS HAD BEEN CORRECTLY MADE TO THE ASSIGNEE BANK. CLEARLY THEN, THERE WAS ENOUGH DOCUMENTATION AND EVIDENCE IN THIS MATTER TO PLACE AN AUDITOR

ON NOTICE OF A PROBABLE ASSIGNMENT OF THE CONTRACT PROCEEDS AT THE TIME THE IMPROPER PAYMENT WAS MADE. THEREFORE, SINCE THE IMPROPER PAYMENT TO KATHY'S KRANES CORPORATION WAS MADE ON FEBRUARY 24, 1984, THE STATUTE OF LIMITATIONS IN THIS CASE EXPIRED FEBRUARY 24, 1987. AS STATED ABOVE, ALTHOUGH AN ATTEMPT WAS MADE, NO EXCEPTION WAS TAKEN TO MR. VOGELE'S ACCOUNT WITHIN THE REQUISITE TIMEFRAME. ACCORDINGLY, THE ACCOUNT IS CONCLUSIVELY SETTLED BY OPERATION OF LAW.

TO AVOID THIS KIND OF PROBLEM IN THE FUTURE, WE NOTE THAT THE GAO POLICY AND PROCEDURES MANUAL FOR THE GUIDANCE OF FEDERAL AGENCIES REQUIRES AGENCIES TO REPORT IMPROPER PAYMENTS TO GAO WITHIN 2 YEARS AFTER THE DATE THE ACCOUNT INVOLVED IS AVAILABLE TO GAO FOR AUDIT (THAT IS, THE DATE THE AGENCY HAS SUBSTANTIALLY COMPLETE ACCOUNTS). 7 GAO POLICY AND PROCEDURES MANUAL, SEC. 28.14. BY REQUESTING RELIEF FOR AN IMPROPER PAYMENT WITHIN 2 YEARS AFTER THE LOSS HAS OCCURRED, OUR OFFICE HAS TIME BOTH TO AVOID THE EXPIRATION OF THE 3-YEAR LIMITATION PERIOD AND TO HAVE AN ADEQUATE OPPORTUNITY TO DETERMINE WHETHER RELIEF SHOULD BE GRANTED.