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B-124901 October 26, 1955

Number: B-124901

Date: 1955-10-26

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Honorable Thomas B. Curtis House of Representatives

Dear Mr. Curtis:

Further reference is mad to your letter of July 27, 1955, acknowledged July 29, concerning year-end procurement for the Government at the Tinker Air Force Base, Oklahoma City, Oklahoma.

As you were informed in our letters of August 15 and September 27, it was necessary to refer to our Office of Investigations for investigation and report the copy of invitation for bid No. (IFB)34-601-55-519(LP) issued June 17, 1955, which accompanied your letter. The investigation now has been completed.

It is stated in the investigator's report that the invitation, which lists 128 line items of fuses by its terms (Special Provision, page 13), contemplates the execution of a call-type contract. Under such a contrast the quantities of fuses specified in the invitation represent estimates of requirements, and the contractor agrees to furnish only such fuses, at the prices specified in the bid, as and when called for by the contracting officer in accordance with the authority and procedures set forth in the special provisions. The purpose in issuing the invitation, as stated by responsible procurement officials at the Tinker Air Force Base, was to provde a redy souce of supply for fuses, in lieu of purchasing them in the open market as had been done theretofore. The contract period of the subject invitation, that is to say the period of time during which it was contemplated the contract would be available for calls, is July 1, 1955, through September 30, 1955. The fiscal year appropriation chargeable with procurements under such contracts is set forth in Air Force Procurement Instructions 3-409.2(b) as follows:

"(b) Call Contracts (CC). Call contracts do not obligate the Government to call for any supplies or services but do contain detailed descriptions and prices of the supplies or services which the Government may call for during a specified period of time. Prices will be established therein on a fixed-price basis. Funds are obligated and delivery shcedules and quantities are established by each call and not by the contract itself. The appropriate clause for incorporating the call feature into a contract is set forth in AFPI 7-4039."

The report points out that the invitation was conceled and that no award was made thereon because of a misunderstanding on the part of some biddres of the conditions of the precurement, the use by the Air Force of obsolete steak numbers in describing certan items listed in the invitation, and wide variances

in prices submitted by bidders. If the invitation had resulted in a contract, however, it seems resonably clear from the quoted Air Force procurement instructions that any proprocurements thereunder would obligate appropriations for the fiscal year 1956 rather than fiscal year 1955 monies. See section 1311 of the Supplemental Appropriation Act, 1955, 68 Stat. 830.

Commenting generally, the report states that 15 sell-type invitations issued during June 1955, covering various items of supplies were examined, that, of the invitations including the cited invitation were canceled for various reasons, and that 13 contracts were entered into with bidders on the remaining 8 invitations. the report also states that the administrative records of commitments and obligations concerning the 13 contracts were examined and that in each case the procurements made thereunder were subsequent to July 1, 1955, and that such procurements were charged to fiscal year 1956 appropriations. Our investigators conclude that the circumstances giving rise to the invitation in question, as well as the similar invitations issued at the Tinker Air Force Base during the latter part of June 1955, disclose no evidence of year-end spending.

We hope that the information set forth herein and in our letter of August 15 will serve the purpose of your inquiry. Thank you for calling this matter to our attention.

The copy of the invitation for bid forwarded with your letter is returend.

Sincerely yours,

Joseph Campbell Comptroller General of the United States

Enclosure