



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

November 15, 1951

B-106325

The Honorable

The Secretary of State

My dear Mr. Secretary:

Reference is made to a letter dated October 31, 1951, from the Deputy Under Secretary, requesting to be advised whether this Office has any objection to a subcontract proposed to be entered into by Grove, Shepherd, Wilson, and Kruge, Inc., cost-plus-a-fixed-fee contractors with your Department for the construction of two radio installations under contract No. FCC-1A-1705, dated January 29, 1950.

The prime contract, which was negotiated under authority of Title III of the Federal Property and Administrative Services Act of 1949, contemplates the performance of all design services and all electronic installation and test services by subcontractors. The subcontract here involved covers the furnishing of general architect-engineering services for the project, exclusive of electronic work, on a cost-plus-a-fixed-fee basis, at an estimated cost of \$281,973, and provides for payment of a fixed fee of \$20,197. However, the subcontract provides further that the total amount payable thereunder, including the fixed fee, shall not exceed \$400,000, and the subcontractor is obligated to perform the work for no more than this amount regardless of cost. In other words, the subcontractor will receive

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payment on a cost-plus basis, but in no event to exceed \$400,000. The letter of October 31, 1951, states that no exact precedent for such payment provisions is known, and requests the views of this Office thereon.

The letter of October 31, 1951, also invites attention to the provisions of section 304(b) of the Federal Property and Administrative Services Act of 1949, which limits the amount payable for architectural or engineering services under cost-plus-a-fixed-fee contracts to six per centum of the estimated cost of the project involved. The estimated cost of the prime contract is in excess of \$12,000,000, and the maximum amount of \$400,000 payable under the subcontract in question is, of course, much less than six percent thereof. In this connection, it is assumed that consideration will be given to the statutory maximum in fixing the amount to be paid for any other architectural and engineering services which may be required in connection with the project, so that the total paid will not exceed six percent of the estimated project cost. See, in this connection, 21 Comp. Gen. 580; 22 id. 464.

So far as concerns the provisions in the subcontract for payment on a cost-plus-a-fixed-fee basis or in a fixed amount, whichever is smaller, you are advised that this Office perceives no legal objection to such provisions.

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The enclosures submitted with the letter of October 31, 1951,  
are returned herewith as requested.

Sincerely yours,

Ludway C. Warren  
Comptroller General  
of the United States

Enclosures