



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

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JAN 8 1933

The Honorable,

The Secretary of the Navy.

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Sir:

There has been received your letter of December 19, 1932, as

follows:

"You are informed that the hereinafter-quoted letter has been received from the Grain Stabilization Corporation, functioning under the auspices of the Federal Farm Board:

"In reference to the conference held in the office of the Chief Coordinator Monday morning November 28, with reference to making available our coffee stocks to the U.S. Navy and other government departments.

"The Grain Stabilization Corporation is selling 62,500 bags of coffee monthly, to the highest bidders. It has been our practice to open bids on the first business day of each month and to immediately notify the successful bidders. Coffee thus sold is to be taken from the warehouse by the 15th of the month. The storage charges after that accrue for the account of the buyer.

"The coffee we own is average $\frac{1}{2}$ Santos, Strictly Soft. We have had favorable reports as to quality from those who have purchased the coffee during the past three months.

"We make the following proposition to the U.S. Navy and also to any other government department. We will release to you any quantity of coffee desired for prompt withdrawal from present storage. Such coffee to be promptly removed and stored at the expense of the department accepting this proposition. All charges will be paid on the coffee by us to the time it is delivered f.o.b. trucks or cars at the Bush Terminal Warehouse.

"The Navy or other department to utilize the coffee from time to time at their convenience. The price to be fixed on the first business day of each month on the coffee that has been used during the preceding month. Remittance to be made to this corporation in a manner customarily used by the purchaser.

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"The price to be determined by this corporation and shall be the net average price at which it accepts bids on the coffee it sells on the first business day of each month.

"The coffee is packed in ordinary export bags, weighing approximately 132 pounds each.

"If any government department desires to avail themselves of this offer, please communicate with our Chicago, office, attention H. L. Valentine so that details may be arranged for the release of whatever quantity of coffee that may be desired.

"The prices quoted will be net f.o.b. Bush Terminal Warehouse. If desired, however, this corporation will undertake to ship in carload lots to any destination designated, will prepay the freight charges thereon, and include such charges in the amount of the invoice so as to make a delivered price."

"It is requested that the Navy Department be informed whether the Grain Stabilization Corporation is an 'executive department or independent establishment of the Government, or any bureau or office thereof' within the intent of Section 601 of the Act Making Appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes, approved June 30, 1932, and if so whether the transfer of the coffee may be made to the Navy under the conditions proposed."

Section 601 of the Economy Act of June 30, 1932, 47 Stat. 417.

provides:

"SEC. 601. Section 7 of the Act entitled 'An Act making appropriations for fortifications and other works of defense, for the armament thereof, and for the procurement of heavy ordnance for trial and service, for the fiscal year ending June 30, 1921, and for other purposes,' approved May 21, 1920 [U.S.C., title 31, sec. 686], is amended to read as follows:

"SEC. 7. (a) Any executive department or independent establishment of the Government, or any bureau or office thereof, if funds are available therefor and if it is determined by the head of such executive department, establishment, bureau, or office to be in the interest of the Government so to do, may place orders with any other such department, establishment, bureau, or office for materials, supplies,

equipment, work, or services, of any kind that such requisitioned Federal agency may be in a position to supply or equipped to render, and shall pay promptly by check to such Federal agency as may be requisitioned, upon its written request, either in advance or upon the furnishing or performance thereof, all or part of the estimated or actual cost thereof as determined by such department, establishment, bureau or office as may be requisitioned; but proper adjustments on the basis of the actual cost of the materials, supplies, or equipment furnished, or work or services performed, paid for in advance, shall be made as may be agreed upon by the departments, establishments, bureaus, or offices concerned: Provided, however, that if such work or services can be as conveniently or more cheaply performed by private agencies such work shall be let by competitive bids to such private agencies. Bills rendered, or requests for advance payments made, pursuant to any such order, shall not be subject to audit or certification in advance of payment.¹⁰

Strictly speaking, stabilization corporations recognized by the Federal Farm Board pursuant to section 9 of the Agricultural Marketing Act of June 15, 1929, 46 Stat. 15, are neither executive departments nor independent establishments of the Government. A-33311, September 15, 1930. However, they are corporations operating with funds borrowed from the Federal Farm Board and are instrumentalities created for the purpose of assisting in carrying out the policy announced by the Congress in that act, and in a general sense a Federal agency within the meaning of the quoted enactment. In view thereof, transactions between the Grain Stabilization Corporation and other Government agencies may be considered generally as transactions between executive departments or independent establishments of the Government.

It will be noted that Section 601 of the Economy Act, supra, provides for the reimbursement between the Government agencies of the actual cost of the supplies furnished. Accordingly, no objection will

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be made to the purchase of coffee from the Grain Stabilization Corporation if the price to be paid is reasonable and does not exceed the cost of that commodity to the corporation. Should the price asked by the corporation exceed the cost to it of such supplies, section 601 would not be applicable and in that case the purchase could not lawfully be made unless, after competition under section 3709, Revised Statutes, it would be ascertained that the price offered by the corporation was the lowest bid.

Respectfully,

Comptroller General
of the United States.