



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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PROCUREMENT AND SYSTEMS
ACQUISITION DIVISION

APR 16 1974

B-133229

The Honorable William S. Whitehead
Chairman, Renegotiation Board 477

Dear Mr. Whitehead:

We examined selected voluntary refunds and price reductions reported by contractors to the Renegotiation Board during the fiscal years 1970-72. We wanted to find out whether the refunds and price reductions were truly voluntary or whether they were required under the terms of a contract.

We reviewed about \$32 million of the refunds and price reductions reported. Generally, the price reductions and refunds were actually made and ultimately benefited the Government. However, we believe the majority of the amounts reported were not voluntary refunds or price reductions that could reasonably be attributed to the existence of the Renegotiation Act.

BACKGROUND

The Board reports to the Congress annual information it has received from contractors on voluntary refunds and price reductions. Although the Board has implied that these voluntary refunds and reductions are due, at least partially, to the existence of renegotiation, it usually does not determine whether these amounts were voluntary or were required by contracts. Nor does it determine whether the refunds were made to the Government or otherwise benefited the Government.

Our report to the Congress on the "Operations and Activities of the Renegotiation Board" (B-163520, May 9, 1973), suggested that, for the Congress to have the most meaningful information available on voluntary refunds

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attributable to the act, the Board review such refunds, at least on a test basis.

VOLUNTARY PRICE REDUCTIONS AND
REFUNDS INCORRECTLY REPORTED

For fiscal years 1970-72, the Board reported to the Congress about \$37.7 million in voluntary refunds and price reductions, accumulated from 171 reports from contractors. This amount was understated by about \$15 million because of two computational errors. In one instance, a contractor reported a \$15,022,533 price reduction but the Board reported it as \$15,023. In another instance the Board counted a voluntary refund of \$66,000 twice.

Refunds and price reductions of \$30.3 million, or 94.6 percent of the \$32 million in the 57 cases reviewed, should not have been reported because they included (1) lower prices negotiated at the time of contract award than obtained in previous years, (2) quantity discounts granted at the time of price negotiations, (3) elimination of intercompany profit, (4) settlement of defective pricing claims, (5) differences between price to the Government and standard commercial price for the same item, and (6) amounts required to be adjusted under basic ordering agreements. (See enc.)

Some of these reductions were negotiated to arrive at contract prices; others were required by contracts. Several contractors agreed that the amounts should not have been reported as voluntary refunds or price reductions.

Apparently the Board's criteria on what constitutes a voluntary refund or a price reduction are subject to contractor interpretation, since in almost one-third of the 57 cases reviewed the reported refunds and reductions were made to fulfill contract obligations.

CRITERIA ESTABLISHED FOR REPORTING
VOLUNTARY REFUNDS AND PRICE REDUCTIONS

In a letter dated September 1, 1966, the then Chairman of the Renegotiation Board defined voluntary refunds and voluntary price reductions as including:

"* * * any payment, credit, or other method of providing a monetary benefit to the procuring department or upper-tier contractor * * * when such action is not required by any contractual or other legal obligation. It may be unsolicited or it may be made in response to a request * * *."

The Board's instructions to contractors specify only that these refunds and reductions should not be required by the contracts or subcontracts and that they not be made pursuant to price adjustment provisions in contracts.

CONCLUSIONS

The Board should not consider amounts reported to it by contractors as voluntary price reductions unless they occur after an initial contract price has been established and are not attributable to normal price negotiations or competition. Further, amounts received because of defective pricing claims should not be considered voluntary price reductions because, according to the contracts, contractors must refund such determinations.

RECOMMENDATIONS

In its 1973 annual report, the Board omitted all references to reported voluntary refunds and price reductions. This action is practical if the Board does not consider this data significant enough to verify it. However, we recommend that, if the Board reinstitutes the reporting of these amounts, the criteria for voluntary refunds and voluntary price reductions be revised to include examples,

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in the Board's pamphlet for filing renegotiation reports,
on what should be reported.

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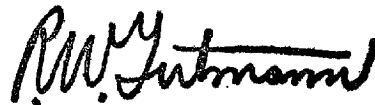
Please advise use of any actions the Board may take
in this matter.

We are sending copies of this report to the Chairmen,
Senate and House Government Operations and Appropriations
Committees; the Chairman, Senate Finance Committee; and the
Chairman, House Ways and Means Committee.

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Sincerely yours,



R. W. Gutmann
Director

Enclosure

ENCLOSURE

SUMMARY OF VOLUNTARY REFUNDS AND PRICE REDUCTIONS

REVIEWED THAT THE BOARD SHOULD NOT HAVE ACCEPTED AND REPORTED

FISCAL YEARS 1970-72

<u>Reason for reported amounts</u>	<u>Reported as voluntary</u>		<u>Total</u>
	<u>Refunds</u>	<u>Price reductions</u>	
Before contract award:			
Reductions from previous years' prices	\$ -	\$27,631,941	\$27,631,941
Quantity discounts	817,252	514,359	1,331,611
Differences between Government and standard commercial prices	-	234,416	234,416
After contract award:			
Amounts required to be adjusted under basic ordering agreements	180,917	247,179	428,096
Elimination of intercompany profit	-	428,070	428,070
Settlement of defective pricing claims	86,000	165,000	251,000
Total	<u>\$1,084,169</u>	<u>\$29,220,965</u>	<u>\$30,305,134</u>