



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

DEFENSE DIVISION

B-173237

JAN 31 1972

Dear Mr. Sanders:

During our survey of the planning for, and construction of, facilities relating to the Navy's Shipyard Modernization Program (assignment code 76207) we noted that the Philadelphia Naval Shipyard used Naval industrial funds to perform work which apparently should have been performed with military construction funds. The pertinent facts related to this case are presented below.

In September 1968, the Congress approved a project to alter a building at the shipyard to provide for a hydraulic repair and test facility. This project--identified as line item number P-235--was estimated to cost \$305,000. Of this amount, \$59,000 was designated as the estimated cost of a 750 KVA electrical substation. We were advised, however, that the \$59,000 was not used for the electrical substation but was used to cover other costs of the new facility.

Between January 1968, when project P-235 was submitted to the Congress for approval, and September 1968, when the Congress approved the project, two significant events occurred. We were told that first, the shipyard decided to install some additional equipment in the new facility and concluded that the 750 KVA substation would not be adequate. We were also advised that later (in May 1968) the shipyard decided that instead of procuring a new substation, it would use a 1000 KVA substation which it had obtained in 1966 as surplus from another defense activity. We were told that it was then too late to change the request submitted to the Congress.

One fact regarding the switch to the 1000 KVA substation was overlooked by shipyard officials and according to the officials was not discovered until the fall of 1968--the 1000 KVA substation the shipyard had on hand was not an outdoor type and would require construction of a permanent protective housing. The shipyard used an estimated \$30,000 of Naval industrial funds to perform this construction.

The permanent protective housing for the electrical substation clearly appears to constitute either a public building or a public improvement within the meaning of those terms as used in section 3733, Revised Statutes, 41 U.S.C. 12, which provides that--

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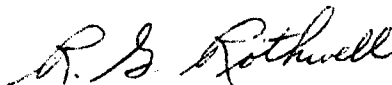
"No contract shall be entered into for the erection, repair or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose."

While it appears that construction funds properly could have been used for construction of the protective housing, we find no legal authority for using industrial fund monies for such purpose. In fact, such use seems specifically prohibited by Part IX, Paragraph I-5, of Department of Defense Directive 7410.4 which provides in part that--

"5. Except as provided above [not here pertinent], costs of acquisitions or improvements of real property, machine tools and other plant and equipment, and any other investment type property for use in the operations of an industrial fund activity, shall be financed under appropriated funds. * * *."

We are bringing this matter to your attention so that appropriate administrative action may be taken to adjust the erroneous charge to the industrial fund and so that you may consider the need for taking action to prevent such future expenditures.

Sincerely yours,



R. G. Rothwell
Associate Director

The Honorable Frank Sanders
Assistant Secretary of the Navy
(Financial Management)