

COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-177410

JAN 3 1973

Dear Mr. Sampson:

By letter dated November 7, 1972, with enclosures, the General Counsel recommended that, in addition to the \$10,829.30 paid under negotiated contract No. GS-08S-29863, with the Palmer-Shile Company for a quantity of cantilever racks with arms, there be authorized an additional payment of \$11,803.20.

After the contract was awarded, the Palmer-Shile Company inquired whether the racks were to be without arms. Upon advice that arms were required on the racks as provided in the purchase description that was attached to the solicitation, Palmer-Shile advised that it had not included the price of arms in its offer. The omission was occasioned by a modification of past procurement practices on the part of the General Services Administration. Palmer-Shile was accustomed to having the quantity of arms required for the racks set forth separately in the solicitation document.

The Palmer-Shile offer was the only one received on the racks. The contracting officer compounded the Palmer-Shile error by comparing the prices in the offer with prices on a previous procurement of racks without arms. If the prices in the offer had been compared with prices previously paid for racks with arms, the contracting officer more than likely would have requested verification of the offer due to the substantial difference between the two. In this context, it is reasonable to assume that upon verification, Palmer-Shile would have discovered the mistake, and would have asserted its claim for relief. B-174627, December 29, 1971.

Because of the urgency of the procurement, the contractor was directed to and did perform the contract notwithstanding the pendency of the claim for relief. In the circumstances, Palmer-Shile is entitled to payment on a quantum valebant basis for the equipment delivered. B-176899, November 24, 1972. Inasmuch as the contracting officer has determined on the basis of previous purchases that the additional cost

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as requested by Palmer-Shile is \$11,803.20, an additional payment in that amount may be made.

Sincerely yours,

R.F.KELLER

Deputy Comptroller General  
of the United States

The Honorable Arthur F. Sampson  
Acting Administrator, General  
Services Administration