



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

31072

B-178711

June 14, 1973

The Honorable Donald E. Johnson  
Administrator, Veterans Administration

Dear Mr. Johnson:

Reference is made to letter 1340 dated May 15, 1973, from the Director, Supply Service, Department of Medicine and Surgery, forwarding, with a favorable recommendation, the request of Texas-Ica Machine Company to be relieved from performance under purchase order contract No. 73-MC-20130, issued by the Marketing Division for Medical Equipment, Hines, Illinois.

The invitation for bids under which the contract was awarded solicited bids for 24 separate line items covering several types of icemaking and dispensing machines for various Veterans Administration hospitals. The company's low prices for three items were accepted by the contracting officer for award. Subsequent to the award, the company requested to be relieved of performance under the contract because of an error which resulted in its failure to include in its prices significant amounts to cover warranty requirements. The company submitted evidence demonstrating the error to the satisfaction of the contracting officer.

The contracting officer has recommended that the company be relieved of performance under the contract without liability on the grounds that he should have been aware of the possibility of error and requested verification of its bid prices. In this regard, he points out that the average prices bid by the next three lowest bidders on the three items awarded to the company are approximately 18, 19 and 33 percent higher, respectively, than the corresponding prices in the company's bid.

From our review of the record, we agree that the contracting officer was on constructive notice of error and that verification should have been requested before award. Accordingly, the company may be relieved from performance as administratively recommended. See 37 Comp. Gen. 685 (1958).

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General  
of the United States

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