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DOCUMENT RESUME

04691 - [B0125030] (~~Restricted~~)

[Award and Administration of Navy Contract for Bomb Suspension Lugs]. PSAD 78-67; B-190918. January 12, 1978. 4 pp.

Report to Rep. Marc Lincoln Marks; by Elmer B. Staats, Comptroller General.

Issue Area: Federal Procurement of Goods and Services: Reasonableness of Prices Under Negotiated Contracts and Subcontracts (1904).

Contact: Procurement and Systems Acquisition Div.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of the Navy: Navy Ships Parts Control Center, Mechanicsburg, PA; David B. Lilly Co., Inc.: Delaware Fastener Div.

Congressional Relevance: Rep. Marc Lincoln Marks.

The Navy's administration of a contract for bomb suspension lugs awarded to the Delaware Fastener Division of David B. Lilly Company, Inc., was reviewed to determine whether the Ships Parts Control Center complied with procurement regulations in awarding the contract and subsequently allowing late deliveries and whether the Government incurred additional costs because the contractor failed to meet the original delivery dates. Findings/Conclusions: The Delaware Fastener Division submitted the lowest of three bids for the suspension lugs and received the \$223,444 contract without further negotiations. A preaward survey indicated that Delaware Fastener could meet the contract requirements but that a subcontractor had financial problems. Monthly shipments of 5,000 units were to be made until the total quantity of 37,117 was delivered. The contractor missed the first two deliveries because of allegedly defective steel received from suppliers. As of October 31, 1977, Delaware Fastener had only delivered 2,955 of 7,500 units required under a revised schedule. A contract modification was executed on December 5, 1977, to revise further the delivery schedule. The Ships Parts Control Center's actions in awarding and administering the contract, including the extension of delivery dates, were reasonable under the circumstances and were in accordance with relevant procurement regulations. Little or no additional costs were incurred by the Government because of late deliveries. (RRS)

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

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1/19/78

12 JAN 1978

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B-190918

The Honorable Marc Lincoln Marks
House of Representatives

Dear Mr. Marks:

In response to your letter dated August 2, 1977, and subsequent meetings with your office, we reviewed the Navy's administration of a contract for bomb suspension lugs awarded to Delaware Fastener Division, David B. Lilly Company, Inc. Our examination was primarily directed toward determining whether the (1) Ships Parts Control Center, the Navy's procurement agency, complied with pertinent procurement regulations in awarding the contract and subsequently allowing late deliveries, and (2) Government incurred additional costs because the contractor failed to meet original delivery dates.

In summary, we found that the Control Center's actions in awarding and administering the contract, including its decision to extend delivery dates, were reasonable under the circumstances and were in accordance with pertinent procurement regulations. We found that little or no additional costs were incurred by the Government because of late deliveries.

On December 9, 1976, the Air Force issued a purchase request to the Control Center for MK-84 bombs, which were to be produced at the Naval Ammunition Depot, McAlester, Oklahoma. This necessitated the procurement of suspension lugs which are used to hook the bombs to the aircraft.

A request for proposals for the suspension lugs dated March 9, 1977, was sent to seven potential suppliers. Three firms submitted offers which ranged from \$6.02 to \$24.00 a unit. The Control Center decided that, since effective competition existed, the contract should be awarded to the low bidder, Delaware Fastener Division, David B. Lilly Company, Inc., without further negotiations. Prior to the award, the Control

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Center requested the Defense Contract Administration Services to perform a preaward survey of the prospective contractor. The survey report concluded that Delaware Fastener could meet the contract requirements.

The Control Center had also requested a preaward survey of one of Delaware Fastener's prospective subcontractors, Land Air Inc. The Defense Contract Administration Services reported that the subcontractor had a financial problem, but that the prime contractor had worked out an acceptable solution. The report also concluded that the delivery schedule could be met.

Contract N00104-77-C-A023 was awarded to Delaware Fastener for 36,117 suspension lugs valued at \$217,424 on April 26, 1977. On June 21, 1977, the Control Center exercised its option for 1,000 additional units, increasing the contract value to \$223,444.

The contract provided that 30 days after approval of samples, monthly shipments of 5,000 units were to be made until the total quantity of 37,117 was delivered. On July 21, 1977, Delaware Fastener notified the Control Center that it was unable to make the initial shipment, due July 16, because of defective steel received from its supplier. Delaware Fastener stated that recovery of lost production would be made by the first week of August 1977, and that deliveries would be current as of August 16.

On August 17, 1977, the Control Center was informed by the contracting officer that no shipments had been made. On August 18, 1977, the Center issued a "show cause" letter to Delaware Fastener stating that the Government was considering terminating the contract. The contractor was allowed 10 days to present any facts bearing on the case which would explain its default. We confirmed that this is the Control Center's standard practice before termination of a contract for default.

In a letter to the Control Center dated September 1, 1977, Delaware Fastener outlined each step it had taken to perform under the contract. Delaware Fastener stated that the underlying reason for its failure to meet the delivery schedule was the bad steel received from its supplier. The fault in the steel was not known until after 10,000 pieces had been forged by the subcontractor. Delaware Fastener stated that this type of fault was not apparent in the initial forging process and requested that the delivery schedule be amended.

The Control Center was advised by the Defense Contract Administration Services on September 8, 1977, that, in its opinion, the contractor had solved its material supply problem and would be able to make delivery. As a result of negotiations with the Control Center, the contractor agreed to pay \$1,500, which represented 2 percent of the value of the suspension lugs not delivered on time. The delivery schedule was revised to allow delivery of 2,500 units in September 1977, 5,000 units in October 1977, and additional monthly deliveries of 5,000 units until the total 37,117 units were delivered. Extension of delivery dates is permitted by the Armed Services Procurement Regulation.

As of October 31, 1977, Delaware Fastener had only delivered 2,955 of the 7,500 units required under the revised schedule. In notifying the Control Center of the second slippage on October 31, 1977, Delaware Fastener stated that a subcontractor had refused to continue work on the contract because of repeated production interruptions due to the defective steel, but that it had arranged with another firm to do this work. On November 1, 1977, the Control Center sent the contractor another "show cause" letter. The contractor was again allowed 10 days to present any facts bearing on the case.

Delaware Fastener, in a letter dated November 18, 1977, explained its reasons for its second failure to deliver as scheduled and the actions it was taking to assure future deliveries of suspension lugs. The contractor proposed revising the delivery schedule again to allow for 1,000 units to be delivered on December 9, 1977, an additional 2,000 units on January 31, 1978, and 5,000 units at the end of each month thereafter until contract completion. A contract modification was executed on December 5, 1977, to revise the delivery schedule with no additional consideration being paid to the Government. Delaware Fastener did deliver 1,700 units on December 2, 1977.

A Control Center official informed us that they tried to negotiate consideration for the revised delivery schedule, but the contractor refused stating that it had already lost over \$100,000 retooling a new subcontractor. This official also informed us that the contract was not terminated because they could not get the suspension lugs faster from another source, and that the bomb program had been stretched out so that there was no longer an urgent need to accelerate procurement of the suspension lugs.

Our review did not disclose any substantial costs incurred by the Government because of the contractor's failure to meet original delivery dates. Center officials informed us that McAlester's bomb production line had not been delayed for want of suspension lugs because the Navy used about 8,600 lugs it already had in stock. The stock of suspension lugs will be restored from deliveries under the Delaware Fastener contract.

We did not consider it necessary to obtain formal comments from the Department of the Navy; however, the results of our work were discussed with Control Center officials.

In accordance with arrangements with your office, 7 days after the report is delivered to you, we will send copies to Senators Richard S. Schweiker and H. John Heinz, III, Congressman Thomas B. Evans, the Secretary of Defense, the Secretary of the Navy, and any other interested parties.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James B. Steels". The signature is written in a cursive, somewhat stylized hand.

Comptroller General
of the United States