

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

D-174345

June 13, 1973

31039

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Attorneys at Law  
95 State Street  
Springfield, Massachusetts 01103

Attention: Irving D. Labovitz, Esq.

Gentlemen:

Reference is made to your letter of May 14, 1973, on behalf of Young's Custodial Service, requesting our assistance in implementing our decision of October 17, 1972 (D-174345) to the Secretary of the Air Force.

In the above decision we requested the Department of the Air Force to refund all prompt payment discounts in excess of those intended by your client. The record indicates that \$2,046.97, representing this excess amount, was refunded to your client. We also advised the Air Force that if Mr. Young could show to the Department that he suffered actual damages by reason of his reliance on the Department's excessive estimated requirements for janitorial services in the preparation of his bid, he was entitled to be compensated for such damages. We have been advised by the Air Force that this matter has been thoroughly inquired into by the cognizant procurement activity at Westover Air Force Base, Massachusetts, with the assistance of the Boston Region, Defense Contract Audit Agency, which reviewed and evaluated your client's records, and that the Department has been unable to find that your client incurred any fixed expenses which could be attributed to his reliance on the excessive estimated requirements.

Accordingly, since Mr. Young has been unable to demonstrate to the Air Force that he suffered any damages directly attributable

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to the excessive estimated requirements shown in the Department's invitation for bids, it does not appear that a proposed settlement, mutually acceptable to the parties concerned, will be submitted for consideration by this Office under the authority of our decision of October 17, 1952. In this connection, you should be advised that our decisions have consistently held that the burden does not rest upon the Government to refute claims presented for settlement or to refute the allegations upon which such claims are based, but that the burden is on claimants to furnish evidence clearly and satisfactorily proving their claims and all matters incidental thereto which may be necessary to establish the legal liability of the United States and the claimants' rights to receive payment. See B-154603, May 29, 1953, and cases cited therein.

In view of the foregoing, we are closing our file in this matter without further action.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General  
of the United States