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COMPTROLLER GENERAL OF THE UNITED STATES

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RELEASED

B-219768

September 18, 1985

The Honorable Mack Mattingly  
United States Senator  
380 Interstate North, Suite 195  
Atlanta, Georgia 30339

Dear Senator Mattingly:

This is in response to your letter to our Office dated July 22, 1985, asking that we review concerns of federal employees at Fort Gordon, Georgia, regarding our decision in Pan Am World Services, Inc., B-215829, June 24, 1985, 85-1 C.P.D. ¶ 712 (copy enclosed).

We held in the Pan Am decision that the Army had conducted an improper cost comparison in deciding whether to contract for services at Fort Gordon, and we recommended that the Army recalculate the estimated cost of continuing in-house performance and then compare that cost with Pan Am's proposal. This new cost comparison, not yet finalized, could result in an award to Pan Am which, in turn, apparently could result in the displacement of a number of the federal employees now performing the covered services. Some employees assert that any such award would be based on allegedly outdated cost data, and may not result in the lowest cost to the government.

Our decision and recommendation in Pan Am were necessitated by our finding that the Army's estimated cost for in-house performance of the work had not been calculated in accordance with the procedures outlined in the OMB Circular A-76 Cost Comparison Handbook governing the procurement and that, as a result, the in-house cost unfairly had been materially understated. Under these circumstances, the only appropriate remedy was to conduct a new comparison using a properly calculated in-house estimate and decide whether to award a contract based on the new result. As with any bid protest, our decision was based on all information and arguments presented by the protester and contracting agency.

Our Bid Protest Regulations provide for reconsideration of our decisions where one of the interested parties timely

challenges the decision as legally or factually incorrect. The Army has not challenged our decision on the Fort Gordon matter, and at no time has it taken the position, or informed us, that the data on which the in-house estimate and cost comparison were based are outdated or otherwise inaccurate.

While the concerns of the Fort Gordon employees certainly are understandable, our decision and recommendation were dictated by the circumstances of the procurement as reflected in the protest record, and by the applicable laws and regulations. As we have not been advised by the Army that those circumstances have changed, and that the new cost comparison results thus might not be viable, we have no legal basis on which to reconsider our recommendation.

We do point out that under Army regulations, Fort Gordon employees and other interested parties have the right to appeal cost comparison results for 15 working days after the results are finalized. Such appeals must be based on alleged deviations from applicable cost comparison procedures.

Sincerely yours,



Acting Comptroller General  
of the United States

Enclosure