



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON

A-55035

MAY 19 1934

Chairman, Board of Directors,  
Tennessee Valley Authority,  
Knoxville, Tennessee.

Sir:

There has been received your letter of May 1, 1934, with enclosures, in reply to my letter of April 23, 1934, with reference to the protest of the National Billiard Manufacturing Company of Cincinnati, Ohio, reading in part as follows:

"It is our practice, where bids are taken on used or factory rebuilt equipment of any kind, to forward copy of abstract, original bids, and all descriptive literature to the Department issuing requisition for analysis and recommendation. In this instance, we received a written recommendation in favor of Bidder No. 7-b, second low bidder.

"No age of equipment was given by Bidder No. 4, National Billiard Manufacturing Company, as requested in our invitation to bid.

"A careful study of all bids and descriptive literature was made by the Recreation Supervisor who is thoroughly familiar with every detail of Pool and Billiard Equipment. We quote below from his letter dated March 20:

"The second low bid is L. E. Gundler, representative of the Brunswick-Balke-Collender Company of Cincinnati. They quote on re-finished Wilmington tables with the necessary small equipment for a price of \$609.75. These tables have only been in use six months, have been completely reconditioned, and originally sold, according to their statement, for \$375.00 each. This is, without doubt a very good table, and inasmuch as the Brunswick-Balke-Collender Company have a national reputation for good equipment and fair dealing, the tables will probably be in good condition and worth the money asked. We recommend that the contract be placed with L. E. Gundler.

"In this connection, it is noted that nothing is said about the pocket balls, and we are assuming that they are bidding on re-conditioned balls. If this is the case, we prefer to have you order new balls, which will sell for about \$19.00 per set, in place of the reconditioned balls which are quoted at \$15.00 per set. The reason for this is that old balls which have been reconditioned are considerably smaller in size than standard balls and are not as desirable."

"A comparison of Items 2 to 15 inclusive shows the essential items, such as cue balls, numbered balls and cue sticks, to be new in Bid No.

7-b, while in Bid No. 4 it is only definitely stated that the cue balls are new."

It thus appears that the sole reason for the acceptance of other than the low bid for the equipment involved was the fact that your Recreation Supervisor expressed preference for the goods and the "national reputation" of a company for whom one of the other bidders was a representative, and in this connection it is noted that it is not shown the equipment furnished was the product of the corporation with a national reputation.

In a letter to the Tennessee Valley Authority under date of March 9, 1934, the low bidder stated that it was quoting on first class reconditioned tables; that it had 53 years experience in the business; and that it guaranteed satisfaction as to every item contained in its bid. There is no evidence that the low bidder was not responsible or that the equipment offered in its bid would not give entirely satisfactory service.

This office has held repeatedly that administrative and contracting officers, acting for and in behalf of the United States, are without authority to accept other than the bid of the lowest bidder offering supplies meeting the stipulated conditions and that the acceptance of other than the lowest bid can not obligate the United States to pay any sum in excess of the amount of the lowest bid.

Upon the facts as presented, it appears that the explanation of the award to other than the low bidder is not satisfactory, nor sufficient to justify a departure from the established rule in the award of Government contracts.

Your attention is invited to the fact that neither in the act creating the Tennessee Valley Authority nor the act making appropriation for its expenditures, is there authority for the purchase of billiard equipment. The authority conferred upon the Corporation by sub-section (f) of Section 4, of the act by which it is created, 48 Stat. page 58, et seq., is not sufficiently broad to render the appropriation available for any item of expense which the board may approve, regardless of its connection with the purposes for which the fund was created and appropriated. There must be a direct relation between the purpose for which the expenditure is made and the purposes embraced in the act. A-38343, September 29, 1931.

I have to advise you that your report supplies no facts justifying rejection of the low bid with resulting excess cost to the Government, and no facts showing that any expenditure for billiard tables was a lawful use of the appropriation made for carrying out the purposes of the "Tennessee Valley Authority Act of 1933."

Respectfully,

(Signed) J. R. McCarl

Comptroller General  
of the United States.