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

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B-176438 (2)

December 27, 1972

Dear Mr. Secretary:

By letters dated August 8 and October 30, 1972, the Associate Administrator/Administration furnished our Office with reports on the protest of Collins Radio Company of the award of a contract to Microwave Engineering, Inc., under request for proposals WA5M-2-7492, issued by the Federal Aviation Administration.

Enclosed is a copy of our decision of today to counsel for Collins denying the protest.

Although we have denied the protest, our review of this case has revealed deviations from good procurement practice which we are calling to your attention in order that procedures may be instituted to preclude their occurrence in future cases.

First, in our opinion, this protest would have been more easily resolvable had a detailed summary of negotiations with all offerors been made as a matter of course immediately following negotiations. While a negotiation summary dated May 24, 1972, was prepared, that summary uses broad, general terms, stating only, in the case of Collins, that Collins had taken "many exceptions" all of which were not acceptable, without making mention of the specific areas of the Collins proposal considered to be unacceptable or without specifying the nature of any agreements reached with Collins during negotiations.

Our experience has shown that some procuring agencies consider the contemporaneous memorialization of negotiation discussions to be of sufficient importance to warrant the preparation of a verbatim transcript. While every case does not necessarily require the detail provided by a transcript, we believe that a contemporaneous and complete written record of negotiations should be prepared in every instance, and we therefore recommend that a procedure requiring the preparation of written minutes of negotiations be instituted for use in future procurements.

Secondly, the administrative report furnished us by FAA contained certain inconsistencies and factual misstatements. Thus while the original report stated that the contracting officer was aware of Collins' technical exceptions expressed during negotiations and as contained in its April 24 proposal revision, the supplemental report

B-1764380  
52 CG

B-176438

advances as a reason for not immediately scrutinizing the Collins April 24 letter the fact that the contracting officer was under the impression that Collins had withdrawn all material technical qualifications during negotiations. Also, the administrative report takes the position that Collins' substitution of its own guarantee clause in place of the standard FAA clause was mentioned for the first time in the April 24 letter notwithstanding the fact that such substitution was actually made in a cover letter to Collins' January 14, 1972, proposal. While these inaccuracies related to peripheral issues not bearing materially on our resolution of this protest, accuracy in administrative reports ordinarily is necessary for proper resolution of bid protests before our Office, decided as they are on the basis of the written record, and care should be taken to insure the exactness of the reported facts.

Finally, we observe that there was an inordinate delay in the submission of the supplemental administrative reports to our Office. We would appreciate it if in the future administrative reports are furnished more expeditiously.

Sincerely yours,

R.F. KELLER

Deputy Comptroller General  
of the United States

The Honorable  
The Secretary of Transportation