



B-177218

JAN 18 1973

Leo Journagan Construction Co., Inc.
Route 10, Box 380
Springfield, Missouri 65803

Attention: Mr. P. H. Anderson
Vice President

Gentlemen:

We refer to your letter of November 17, 1972, and prior correspondence, protesting against the rejection of all bids under invitation for bids (IFB) DACW27-72-B-0100, issued by the Corps of Engineers.

You contend that no basis exists for the procurement activity's determination that the Journagan bid was unreasonable as to price since the bid price only slightly exceeded the Government estimate (determined without profit) and was well within the 25-percent limitation of 33 U.S.C. 624. Whatever merit there might be in this position, we need not address ourselves to it since the matter is rendered academic by the expiration of the applicable Davis-Bacon Act wage determination.

Armed Services Procurement Regulation (ASPR) 18-704.2(a)(5) provides that extensions to wage determinations may be requested when the procurement activity decides that it is in the public interest to do so for several enumerated reasons. The regulation further provides:

"* * * If an extension is not requested, or if it is requested and denied, a new determination shall be requested. If the new determination changes the wage rates, the IFB shall be cancelled and the procurement readvertised using the new wage rates."

Apparently because of the cancellation of the instant IFB, no extension was requested. Moreover, the administrative report, a copy of which was previously provided to you, states that the procurement activity was unable to make the finding necessary for an extension request and, further, that a new wage determination applicable to the work involved contains rate changes.

In view of the record before us, there is no basis to question the decision of the procurement activity not to request an extension to the

40 U.S.C. 276a

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then applicable wage determination. Also, since the rate changes contained in the new wage determination provide a sufficient basis for canceling the IFB in accordance with the cited AEPF provision, we cannot object to the cancellation of the IFB.

Accordingly, your protest is denied.

Very truly yours,

PAUL G. DEMBLING
For the Comptroller General
of the United States