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

31182
JUL 13 1973

B-170813

The Honorable Donald E. Johnson
Administrator, Veterans Administration

Dear Mr. Johnson:

Reference is made to letter 134C dated May 31, 1973, with enclosures, from the Director, Supply Service, requesting a decision as to the action to be taken concerning an error alleged by the Marino Construction Company to have been made in its bid upon which contract No. V695C-756 was based.

The invitation requested bids to provide all labor, material, tools and equipment necessary to demolish and remove existing stair and porch structures and perform all construction, repair and site modification work of the south elevation, Building 2, VA Center, Wood, Wisconsin. Of the six bids received, the low bid was submitted by Marino in the amount of \$57,900. The other bids were \$66,800, \$67,643, \$69,900, \$73,900 and \$86,829. The Government estimate for the work was \$56,200.

After award of the contract, Marino alleged that the \$57,900 bid price was for the "General Construction" and did not contain anything for the "Mechanical Trades" portion of the work that included plumbing, fire protection and electrical work. A price quotation obtained by the contractor after the award of the contract estimated the mechanical trades at \$4,400, which the contractor seeks to recover.

The Director, Supply Service, recommended relief for the contractor on the basis that the contracting officer should have been on notice of possible error since the average of the second, third and fourth low bids is 17.6 percent higher than the low bid and the contracting officer was aware that Marino had never performed a contract for the Federal Government.

However, there was no error apparent on the face of the Marino bid. Inasmuch as the Government estimate was \$1,700 less than the low bid, the contracting officer would not have been on notice of the likelihood of an error, notwithstanding the average of the next three bids was 17.6 percent higher than the low bid. B-177926, April 19, 1973. The acceptance of the low bid consummated a binding and valid contract in the circumstances which fixed the rights and liabilities of the parties. B-170336, May 10, 1973.

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Accordingly, no legal basis exists for the relief requested.

Sincerely yours,

Paul G. Dembling

Acting Comptroller General
of the United States