



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

Handwritten: 091618

B-178810

September 27, 1973

The Honorable
The Secretary of the Navy

Dear Mr. Secretary:

We refer to letter OGC dated July 5, 1973, from Counsel, Naval Facilities Engineering Command (NFEC), reporting on the request of Commercial Paving Co. Inc. for correction of an error alleged to have been made in its bid upon which contract No. N62467-73-C-0105 was based. We are also in receipt of a letter dated July 26, 1973, from the Manager, Contract Procurement Branch, NFEC, Charleston, South Carolina, regarding the matter.

On February 28, 1973, the Southern Division, NFEC, issued an invitation for work described as "Repair and Resurfacing Parking Area, Naval Reserve Center, Greensboro, North Carolina." Bids were opened on March 27, 1973, and the following bids were received:

Commercial Paving Co.	"\$2.00 Per Square Yard, Approximately 750 square yards including removal of deteriorated pavement, patching and resurfacing existing parking area."
Thompson-Arthur Paving Co.	\$3,500

The Government estimate for the work was \$4,000.

Paragraph 1 of the specifications states: "General Description.-The work includes removal of deteriorated pavement ('pot holes'), patching and resurfacing existing parking area, approximately 750 square yards." In view of this description, Commercial's bid was considered to be merely a summary description of the work and to amount to \$1,500. Since this sum was considerably less than the next bid and the Government estimate, Commercial was requested to verify the bid.

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By telegram dated March 30, 1973, Commercial advised the IFTC in Charleston as follows:

"THIS IS TO CONFIRM WE WILL CUT OUT ALL FAULTY ASPHALT BRING UP TO LEVEL WITH EXISTING PAVING ADD 1 AND $\frac{1}{2}$ INCH ASPHALT CAPPING FOR APPROXIMATELY 750 SQUARE YARDS FOR THE LUMP SUM OF \$1,500.00 ABOVE WORK CARRIES 12 MONTHS GUARANTEE WE SHALL PROCEED AT ONCE."

The contracting office considered this telegram to be a verification of Commercial's bid and award was made to the firm on March 30, 1973.

By letter of May 1, 1973, to the Southern Division, IFEC, Commercial advised that its bid of \$1,500 did not include a tack coating of the entire parking lot as required by paragraph 20 of the specifications and requested a \$1,000 increase in its contract price. By letter of May 9, 1973, the Southern Division denied Commercial's request stating that the telegram of March 30 confirmed the bid.

In a letter to our Office dated May 17, 1973, Commercial requested relief from its alleged mistake. Upon review of the record, we do not believe that Commercial's telegram of March 30, 1973, was a complete verification of the bid and, therefore, it should not have been accepted without further verification. Commercial's telegram of March 30 only confirmed that "we will cut out all faulty asphalt bring up to level with existing paving add 1 and $\frac{1}{2}$ inch asphalt capping for approximately 750 square yards for the lump sum of \$1,500.00." The telegram did not indicate that Commercial intended to tack coat the entire surface of the parking area after repairs to the pavement had been made and approved. We believe the contracting officer should have requested a further clarification of Commercial's bid prior to acceptance to determine whether the firm intended to perform the work in accordance with all the contract specifications. See D-178605, May 25, 1973.

We have been advised informally that the contract has been completed. Therefore, release of Commercial from performance of the contract is impossible. However, we recommend that the contractor be paid the reasonable cost of tack coating. Although Commercial contends that it would have added \$1,000 to its bid for tack coating, we note that IFEC considers the reasonable cost for tack coating to be substantially less.

Sincerely yours,

Paul G. Dembling

Acting
Comptroller General
of the United States