



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

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B-178879

October 2, 1973

Forestry Suppliers, Inc.
P.O. Box 8397
Jackson, Mississippi 39204

Attention: Mr. Larry Glass
Sales Manager

Gentlemen:

Reference is made to your letter of June 6, 1973, with enclosures, requesting an increase in the contract price in Forest Service purchase order 2524-R5-72.

You state that your corporation is in the business of importing optical surveying equipment not produced in this country. You have indicated that after the Forest Service awarded the purchase order for 10 of these instruments, the foreign manufacturer increased the price of the equipment and the dollar was devaluated with the result that your corporation is experiencing losses. Therefore, it is requested that an increase in price be authorized for the instruments.

As we stated in 53 Comp. Gen. ____ (B-179255, September 4, 1973):

"The devaluation of the dollar is attributable to the Government acting in its sovereign capacity. See B-175674, May 30, 1972. It is well settled that the Government is not liable as a contractor for the consequences of its acts as a sovereign. See Horowitz v. United States, 267 U.S. 458 (1925); The Sunwick Corp. v. United States, 75 F. Supp. 221, 109 Ct. Cl. 772 (1940). Also, where a Government contract contains an express stipulation as to the amount of compensation to be paid, and no provision is made for any increase in the event performance becomes more expensive or difficult, the fact that the cost of performance is increased by factors which do not constitute undue interference by the Government as a contractor does not entitle the contractor to additional compensation. See B-175674, supra, and cases cited therein. As was stated in Penn Bridge Co. v. United States, 59 Ct. Cl. 892, 896 (1924)--

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"* * * Contractual rights once fixed in a proper contract executed by authority are inviolate. They may be forfeited by one party or the other, construction is permissible if the terms are ambiguous, but in the absence of ambiguity or forfeiture of rights by conduct, such a contract cannot but be enforced as written." (emphasis supplied.)"

In view of the foregoing, there would appear to be no legal authority for granting your corporation an increase in the contract price because of the extra cost of performance incurred.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States