



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

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B-179878

November 15, 1973

Petrof Trading Company, Incorporated
1703 University Avenue
Berkeley, California 94702

Attention: Mr. Julius Petrofsky

Gentlemen:

This is in reply to your letter dated October 13, 1973, with enclosures, protesting the contract award of Lot 178, under sales invitation for bids (IFB) No. 41-4006, issued by the Defense Property Disposal Region-Ogden, covering light and heavy unprepared steel scrap.

Bids were opened on August 7, 1973, and a contract award for item 178 was made on August 14, 1973. We understand that thereafter you had occasion to examine the contents of item 178 and you now contend that the invitation description was either false or meaningless because it did not convey the material's potential usability after demilitarization. You believe, therefore, that the Government was deprived of a higher sale price which it would have received had such potential use been set forth. Accordingly, you request that the Government refuse to relinquish possession of the material and that the lot be reoffered for sale.

Even assuming that the item description does not fully convey the potential usability of its contents, it appears that a valid contract for the sale of scrap metal has been executed. In our opinion, the action you suggest would be justified at this point in time only if the subject contract were so clearly illegal as to render it a nullity. John Reiner & Co. v. United States, 325 F. 2d 438, 440 (Ct. Cl. 1963), cert. denied, 377 U.S. 931 (1964). We do not find that your correspondence provides substantial evidence of such illegality.

Accordingly, we are closing our file in the matter without further action.

Sincerely yours,

PAUL G. DEMBLING BEST DOCUMENT AVAILABLE
[For the] Comptroller General
of the United States

[Contract Award Protest]

7-16-236