



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

091659

B-179066

AUG 30 1973

AIRMAIL

Ventilation Cleaning Engineers,
Incorporated
1569 West Seventeenth Street
Long Beach, California 90813

Attention: Mr. Bernard J. Williams
President

Gentlemen:

We refer to your letter dated June 22, 1973, forwarded to our Office by the Department of the Air Force under cover letter of August 13, 1973, protesting against the proposed award of a contract to Federal Contracting Company (Federal) under Invitation for Bids (IFB) No. F22600-73-B-0453, issued at Keesler Air Force Base, Mississippi. Award of a contract is being withheld pending our decision upon your protest, in which you allege that your bid price was compromised through the departure of an employee to a competing bidder.

The above-referenced IFB was issued on May 17, 1973, for the installation of 1,222 Government-furnished food waste disposer units in family living quarters at Keesler Air Force Base. The following bids were recorded at the bid opening held on June 19, 1973:

<u>Bidder</u>		<u>Unit Price</u>
Federal Contracting Co.	(All items)	\$56.40
Alliance Properties, Inc.	" "	66.10
E. J. Pizzetta	" "	74.50
O'Neil Electric Co., Inc.	" "	81.40
Parker's Mech. Contr.	" "	90.00
Ventilation Cleaning Engrs.	" "	92.00
Arthur Painting Co.		
Basic Bid Item		158.00
Additive Items		149.00

You allege that your bid worksheets were prepared by your Vice President, who then left your employ to form Federal. You assert

BEST DOCUMENT AVAILABLE

FILE COPY - COMP GEN

151
5/2
SEARCHED
SERIALIZED
INDEXED
FILED

B-179066

7

that "this undoubtedly shows collusion" between your former employee and the Secretary-Treasurer of Federal, who signed that company's bid, whereby the confidentiality of your bid price was destroyed.

In response to your allegations, your former Vice President observes that even if it is established that he prepared your worksheets, the bid was submitted and signed by you, not him; that he spent the last two weeks in your employ at your request and with your knowledge that he intended to form a competitor; that your firm had ample opportunity to revise its bid after his departure; and that he did not participate in the preparation of Federal's bid.

In any event, we note that your firm was the sixth low bidder, and any award to you would require the rejection of all lower bids. Under these circumstances, it is difficult to perceive how your firm has been prejudiced by the alleged "collusion" between Federal's officers.

When a military procurement is involved, the Armed Services Procurement Regulation (ASPR) is the controlling rule of law. With regard to collusive acts, ASPR 1-115 provides for certification by bidders to assure that the bidders did not collude among themselves to set prices or to restrict competition by inducing others not to submit bids. You do not allege that collusion occurred between bidders, nor does it appear that any firm, including yours, was prevented from bidding. Consequently, no legal basis exists for this Office to interfere with the proposed award to Federal.

Sincerely yours,

Faul G. Danblin

For the Comptroller General
of the United States

REST DOCUMENT AVAILABLE