

DOCUMENT RESUME

04932 - [B0325199]

[Review of Contract for Painting at Marine Corps Air Stations].
PSAD-78-73; B-146842. January 31, 1978. 6 pp.

Report to Rep. Charles H. Wilson; by Elmer B. Staats,
Comptroller General.

Issue Area: Federal Procurement of Goods and Services:
Reasonableness of Prices Under Negotiated Contracts and
Subcontracts (1904).

Contact: Procurement and Systems Acquisition Div.

Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).

Organization Concerned: Department of the Navy; Marine Corps: El
Toro Air Station, Santa Ana, CA.

Congressional Relevance: Rep. Charles H. Wilson.

Authority: Davis-Bacon Act.

A review was conducted of a pending award of a contract for painting at the Marine Corps Air Stations at El Toro and Santa Ana, California. The Government estimate should have been about 24 cents per square foot rather than the initial estimate prepared of 17 cents per square foot. No indications were found of significant problems in the quality control of contractors' performance. Some minor deficiencies were noted in the manner in which Government inspectors made and reported on inspections of contractors' performance. Labor rates, as adjusted for local conditions by the Government estimator, were reasonably near the approved rates and provided an adequate basis for determining whether contractors had considered appropriate labor rates in bidding on the contract. Although adequate procedures exist for enforcement of labor standards provisions, such enforcement was infrequent at the Air Station (SW)



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20540

B-146842

JAN 31 1978

The Honorable Charles H. Wilson
House of Representatives

Dear Mr. Wilson:

Your letter of September 8, 1977, expressed concern about the pending award of a contract for painting at the Marine Corps Air Stations at El Toro and Santa Ana, California. During a meeting with your office it was agreed that we would provide information on:

- the validity of the Government's cost estimate as a basis for awarding contract 77-C-6421 for exterior painting of base housing units, and the methodology employed in developing such estimates;
- the methods and adequacy of the Air Station's enforcement of the labor standards provisions of the Davis-Bacon Act and the extent to which the Act is considered in developing cost estimates;
- the effectiveness of the Air Station's program to assure that contractors comply with contract specifications.

Our review of this contract, awarded in September 1977 in the amount of \$178,946, was made primarily at the Marine Corps Air Station at El Toro. We reviewed contract files, related documents, reports, and regulations and held discussions with Air Station officials. We also met with officials from the Naval Facilities Engineering Command, Western Division; Corps of Engineers; Department of Labor, Santa Ana area office; and several painting contractors.

We believe the Government estimate should have been about 24 cents per square foot rather than the initial estimate prepared for this project of 17 cents per square foot. This, however, is far less than the lowest acceptable price of 60 cents per square foot that was quoted by your constituent, Mr. J. D. Booker, for the job. The large difference between the Government's cost estimate and that of Mr. Booker was primarily due to his use of a much lower rate of labor productivity.

PSAD-78-73
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The Air Station has the responsibility for assuring contractor compliance with Davis-Bacon Act labor standards, and procedures have been established to require that compliance investigations be conducted regularly. The investigations include reviews of certified payrolls and on-site checking of labor standards. There are, however, only five people at the Air Station involved in assuring labor standards compliance for approximately 40 projects. They also have other duties and enforcement of the labor standards has been infrequent. Department of Labor officials told us, however, that they have not received any complaints of Davis-Bacon Act violations by any of the listed Air Station painting contractors.

Based on conversations with Air Station personnel, a review of selected project files, and observation of ongoing projects, we found no indications of significant problems in the quality control of contractors' performance. We did, however, note some minor deficiencies in the manner in which Government inspectors made and reported on inspections of contractors' performance.

VALIDITY OF GOVERNMENT'S COST ESTIMATE FOR PAINTING

The Air Station civil engineer used one of the several accepted techniques in developing the Government's estimate of cost for contract 77-C-6421. Primarily, the engineer adjusted prior year cost estimates for painting similar projects to account for increases in labor and material costs.

We discussed estimating methodology with representatives of the two prime Department of Defense construction organizations, the Naval Facilities Engineering Command and the Army Corps of Engineers. They advised us that they considered the estimating technique appropriate for the subject contract.

The Government's estimate was about 20 percent below the price of the lowest responsive bidder (the lowest bid, which was about 8 percent below the Government estimate, was withdrawn at the bidder's request). In pursuing the reasons for this difference, we noted that there was little support for the amount by which the prior year cost estimates were increased.

Other estimating techniques

In addition to recent cost data, the Air Station engineer has various industry estimating guides available. The guides generally enable an estimator to arrive at a reasonable cost per unit or cost per square foot for work to be performed. We observed that the guides are intended for use throughout the United States and provide various factors to be applied to rates shown to account for geographic differences in the costs of labor or materials. Additional judgmental adjustments may be made to the figures derived if deemed appropriate. These adjustments would usually occur because of local conditions affecting the specific job.

We examined estimates for four Air Station painting contracts, awarded in fiscal years 1975 and 1976, in which the estimating guides were used as a basis for developing the Government's estimate. We noted that, although in each case the Government estimate was higher than the lowest bids received, it provided contracting officials with adequate information for purposes of evaluating the reasonableness of bids.

We also discussed estimating procedures with two of the contractors that bid on contract 77-C-6421. Although they were aware of the availability of various estimating guides, they indicated that they preferred to estimate the cost of a job on the basis of a physical inspection of the area to be painted and their experience with similar projects.

Discrepancies in negotiations between the Government and the small business contractor

As you know, prior to the award of contract 77-C-6421 on a competitive basis the Government negotiated with Mr. Booker, a small business painting contractor, to determine whether the Government could award the contract under the small business set-aside program (as provided by section 8(a) of the Small Business Act). During the negotiations with Mr. Booker, the Government's initial estimate of cost was about 17 cents per square foot to be painted whereas Mr. Booker was asking a price of 82 cents per square foot, almost five times the Government figure. Our review of the Government estimate disclosed an error which, had it been detected in negotiations, would have placed the Government estimate at 24 cents per square foot, still less than one-third the price offered by Mr. Booker.

At the conclusion of negotiations, the Government offered a price of 25 cents per square foot to be painted, but Mr. Booker was not willing to accept less than 60 cents per square foot and the award was eventually made at 35 cents per square foot to another contractor.

In reviewing Mr. Booker's estimate we found that, although he used appropriate wage rates, his projection of labor productivity was substantially lower than that used by other contractors that bid on the painting contract. Air Station engineers also agreed that Mr. Booker's projected productivity rate was the primary reason for his bid being too high.

Use of prevailing wage rates in estimating

Although contractors are required to pay prevailing wages in accordance with provisions of the Davis-Bacon Act, there is no specific requirement that they demonstrate that appropriate wage rates are used in developing bid estimates.

Officials of the Air Station and the Army Corps of Engineers agreed that there is no requirement that contractors demonstrate consideration of the Davis-Bacon Act in bidding. In the opinion of the officials, however, it would not be feasible for contractors to use lower rates for bidding purposes because they are required to pay approved prevailing wage rates, as determined by the Department of Labor, and mechanisms exist to assure that such payments are, in fact, made during contract performance.

Two contractors that bid on contract 77-C-6421 advised us that they are aware of the prevailing wage rate requirements and had those rates in mind when they developed their estimates.

We examined the estimating guides available at the Air Station to determine whether labor rates in the guides conformed to Department of Labor's approved prevailing wage rates for the geographic area in which the Air Station is located. We found that the labor rates, as adjusted for local conditions by the Government estimator, were reasonably near the approved rates and provided an adequate basis for determining whether contractors had considered appropriate labor rates in bidding on the contract.

METHODS FOR ASSURING
ADHERENCE TO DAVIS-BACON ACT

If properly implemented, the established procedures for determining compliance with the Davis-Bacon Act should provide a high degree of assurance that prevailing wages are paid. Guidance on labor standards enforcement is provided by the Department of Labor with individual contracting agencies retaining enforcement responsibilities. The Armed Services Procurement Regulation and supplemental instructions of the Naval Facilities Engineering Command provide the specific guidance used at the Air Station. These guidelines provide that contracting officials are to:

- obtain Department of Labor wage-rate determinations;
- inform contractors and subcontractors of labor standards requirements through preconstruction letters and conferences;

- regularly conduct compliance investigations;
- assure that violations are promptly corrected and obtain restitution if necessary; and
- prepare periodic labor-related compliance reports.

Actual enforcement of labor standards is minimal

Although adequate procedures exist for enforcement of labor standards provisions, we found that such enforcement was infrequent at the Air Station.

Responsibility for determining compliance with the labor standards at the Air Station rests with the Resident Officer-in-Charge of Construction, a procurement assistant, and four construction inspectors. The procurement assistant is responsible for performing the review of certified payrolls while the four inspectors are supposed to perform the on-site checking of labor standards compliance.

The procurement assistant and the inspectors are currently responsible for assuring labor standards compliance on approximately 40 ongoing projects in addition to fulfilling other duties dealing with contract administration and project inspection. In discussions with the personnel responsible for labor standards enforcement, they stated that they have little time available to enforce labor standards due to a very heavy workload in other higher priority areas.

We discussed the lack of labor standards enforcement with the Resident Officer-in-Charge of Construction and the supervisory construction representative; they expressed the view that excessive workload and higher priorities have prevented effective enforcement.

Our examination of four contract files further confirmed that labor standards enforcement had been infrequent. In all of the contracts reviewed, we found that required employee interviews had not been performed weekly, and timely reviews of contractors' payrolls had not been accomplished. In the case of two of the contracts, certified payrolls did not show subcontractor wage rates or employee job classifications, and payrolls were not cross-checked to other supportive data. In one case a contractor did not show total hours worked per day on his "Contractor Daily Report."

We inquired of Department of Labor representatives responsible for the geographic area in which the Air Station is located concerning the extent to which labor standards violations had occurred. The representatives advised us that they would be involved in labor standards matters at the Air Station only if complaints of violations were filed with the Department. They reviewed a listing of Air Station painting contractors and advised us that they had received no labor standards complaints against any of the firms on the list.

We are currently conducting, as a separate effort, nationwide review of compliance with and enforcement of Davis-Bacon Act provisions, including a number of Department of Defense installations. The enforcement problems noted at the Air Station are similar to those being identified throughout the country. A report covering the problems of enforcing the provisions of the Davis-Bacon Act is anticipated to be completed and released during 1978. Our observations at the Air Station will be considered in the preparation of the report on this nationwide review.

ACTIONS TO ASSURE COMPLIANCE
WITH CONTRACT SPECIFICATIONS

The Government inspector is responsible for conducting daily on-site inspections of contractors' performance. The inspector's observations and testing of work being performed by contractors are the primary assurance to the Government that contractors are performing in accordance with drawings and specifications and are meeting all contractual requirements.

The Government inspector communicates the results of observations and testing through daily reports. Well-prepared reports should advise management on the adequacy of job progress and indicate the extent of testing by the inspector.

Based on our review of contract files at the Air Station and personal observation, we concluded that the inspection function was not being performed as thoroughly as required. We noted that inspectors' reports were not available on a daily basis for some projects, and for others the reports were very sketchy, offering little information on progress of work, its quality, or the extent of testing performed by the inspector.

In discussing this matter with the supervisory construction representative and an Air Station official, they agreed that inspection efforts had been below the level required by Department of Defense guidelines. They pointed out, however, that there are only four construction inspectors available to inspect about 40 ongoing projects, which makes a comprehensive daily inspection of each project virtually impossible (these are the same four inspectors responsible for assuring labor standards compliance).

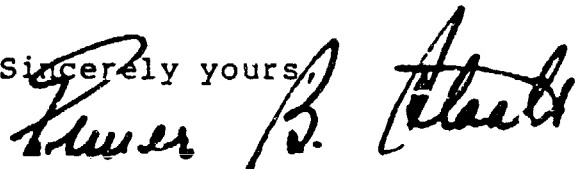
Based on conversations with Air Station personnel, a review of selected project files, and observation of ongoing projects, we found no indications of extensive problems in the quality assurance area even though the Government's primary control mechanism was not operating effectively.

Air Station officials advised us that contractors are generally cooperative when problems are noted and corrective action is prompt. Also, since final payments are withheld pending a final inspection of each project by the Government, contractors do have a financial incentive to fulfill all their contractual obligations.

Air Station and Facilities Engineering Command officials advised us that they intend to closely monitor the progress of contract 77-C-6421 to assure that the contractor performs as required and that all labor standards are met. We discussed with agency officials those opportunities we identified where current practices can be strengthened.

As agreed with your office, we are providing copies of this report to the Department of the Navy and to officials of the agencies where we conducted our review. Copies will also be available to other interested parties who request them.

Sincerely yours,



Comptroller General
of the United States