



11543 *James R. II*

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

B-101404

September 24, 1979

The Honorable Douglas M. Costle
Administrator, Environmental
Protection Agency *AGC00024*

Dear Mr. Costle:

This is in response to your request dated August 28, 1979, with enclosures, requesting my concurrence in your determination that the Government's best interest would be served were TRW, Inc. Redondo Beach, California, allowed to omit the Examination of Records clause from a proposed subcontract with Krupp-Koppers, Essen, Federal Republic of Germany.

Section 304(c) of the Federal Property and Administrative Services Act, as amended, 41 U.S.C. 254(c), (1976), permits waiver of use of the Examination of Records clause for foreign contractors or subcontractors, if the agency head determines and Comptroller General concurs that omission will serve the best interest of the United States.

The need for waiver in this instance arises in connection with EPA contract 68-02-26357 in regard to the development of data needed to set standards for coal gasification processes which EPA anticipates will be commercially developed within the United States during the next decade. Specifically, EPA desires to sample and analyze effluent streams at the African Explosives and Chemical Industries of South Africa, which operates the only known coal gasification process of its type, i.e. for the commercial manufacture of fertilizer. Krupp-Koppers would develop the test plan and would sample and analyze data. Its involvement is considered particularly important by EPA because Krupp-Koppers holds proprietary rights to the processes which would be studied.

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In view of the relatively small dollar amount of the subcontract and the fact that our audit staff has no plans which would require examination of the records covered, I concur in your determination. My decision relates only to the proposed Krupp-Koppers subcontract. The inclusion or omission of the Examination of Records clause in other subcontracts awarded by TRW or in contracts awarded by EPA for similar purposes will be considered only on a case-by-case basis.

Sincerely yours,



Deputy Comptroller General
of the United States