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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D C 20548

RELEASED

B-168240

POA

January 2, 1970

Dear Mr. Widnall:

Further reference is made to your letter of October 22, 1969, transmitting to us a letter from Mr. Martin Neville and requesting that we look into the purchase of foreign-made typewriters for use in United States post offices.

In his letter, Mr. Neville stated that the Union City, New Jersey, Post Office had recently purchased Olympia typewriters which were made in West Germany. Mr. Neville stated also that he could not understand why the Government conducts savings bond drives and at the same time purchases foreign-made equipment. He requested an explanation of this matter.

In accordance with our arrangements with your Office, we limited our review to examining into the Post Office Department's policies and procedures for purchasing typewriters, the pertinent requirements of the Buy American Act (41 U.S.C. 10a-d), and the specific purchase of typewriters for the Union City Post Office. We reviewed the Department's policies and procedures for purchasing typewriters for use in post offices, its pertinent records pertaining to the typewriters purchased for use in the Union City Post Office, and pertinent records of the General Services Administration (GSA). Further, in conjunction with our review, we have considered pertinent provisions of the applicable procurement statute, the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251-260 and 471-490), Executive Order 10582, dated December 17, 1954, which implements the Buy American Act, and related provisions in the Federal Procurement Regulations (FPR) and the Federal Property Management Regulations (FPMR).

On the basis of our review, we believe that the Department's procurement policy pertaining to typewriter purchases is consistent with provisions of the Buy American Act, with the procurement statute, and with the related Government-wide procurement policy which requires purchases to be made on the basis of competitive bids. The information we obtained is summarized in the following sections of this letter.

POST OFFICE DEPARTMENT POLICY
FOR PROCURING TYPEWRITERS

The Department's policy for procuring typewriters provides that, to the extent typewriters obtained on a competitive basis will satisfy the

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demands of the Department, the Department's annual requirements for manual and electric typewriters be determined in advance and submitted to GSA for competitive procurement. The Department's policy provides also that brand name requirements which are justified on the basis of maintenance availability or other special reasons, as authorized by FPMR 101-26.408-3, be met by direct purchase under GSA contracts for such typewriters in a manner which will permit the Department to achieve the maximum discount

The Department's policy for procuring typewriters resulted from our report to the Postmaster General on savings available through competitive procurement of certain small office machines (B-114874, April 29, 1966) in which we expressed the opinion that substantial savings could be achieved if the Department determined, in advance, its annual requirements for small office machines, including typewriters, and submitted these requirements to GSA for competitive procurement under contracts allowing plus or minus variations in the specified quantities. Prior to the change in policy, the Department ordered typewriters directly from contractors under contracts with GSA throughout the year as the requirements arose. For fiscal year 1967, the first year the Department's new procurement policy was followed, we estimated that the Department achieved a saving of about \$83,000 on typewriter purchases.

REQUIREMENTS OF THE BUY AMERICAN ACT

With the exception of articles, materials, or supplies for use outside the United States, bids submitted to GSA for consideration in awarding supply and service contracts are subject to the terms and conditions of the Buy American Act (See FPR 1-6 103-1.) The act requires that purchases of items for public use be of domestic production or manufacture unless the head of the Department or agency concerned determines it to be inconsistent with the public interest or the cost of the items to be unreasonable. Executive Order 10582, provides for the addition of a 6-percent differential to the cost of foreign products in determining whether the cost of domestic products is unreasonable or the purchase of such products is inconsistent with the public interest. Section 5 of the Executive order states that:

"***In any case in which the head or an executive agency proposing to purchase domestic material determines that a greater differential than that provided in this order between the cost of such materials of domestic origin and materials of foreign origin is not unreasonable or that the purchase of materials of domestic origin is not inconsistent with the public interest, this order shall not apply."

Under the provisions of the act and of Executive Order 10582, the purchase of domestic products at a price which exceeds the cost of foreign products by more than 6 percent may not be made unless, as required by section 5 of the order, the agency head determines that a greater differential is

not unreasonable or that the purchase of domestic supplies is not inconsistent with the public interest. The making of such determination is discretionary with the agency head. (42 Comp. Gen. 608, 612 (1963))

Part 1-6 of the FPR implements the act and the related policies set forth in Executive Order 10582. FPR 1-6.104-4 provides that each foreign bid shall be adjusted for purposes of evaluation by adding to the foreign bid (inclusive of duty) a factor of 6 percent of the bid, except that a 12-percent factor shall be added to the foreign bid instead of the 6-percent factor if the firm submitting the low acceptable domestic bid is a small-business concern or a business concern located in a labor surplus area, or both.

The regulations provide, however, that, if an award for more than \$100,000 would be made to a domestic firm if the 12-percent factor is applied but would not be made if the 6-percent factor is applied, the head of the agency is required to make a decision as to whether the award to the small-business concern or the business concern located in the labor surplus area would involve unreasonable cost or would be inconsistent with the public interest.

In accordance with the discretionary authority granted to the Postmaster General in section 5 of Executive Order 10582, in August 1965, the Department proposed, to the Bureau of the Budget, to increase the 6- and 12-percent differentials to a flat 50 percent on foreign-source items. In justifying its proposal to change the differential, the Department stated that the change in FPMR 101-26.4, effective March 31, 1965, which specified that procurements from multiple-award schedule contractors be made at the lowest delivered price, placed the Department in the position of having to procure about 95 percent of its adding machines, calculators, and typewriters from foreign-source manufacturers. The Department stated also that the use of the 50-percent differential should prevent the flood of foreign-made office machines that was "inundating the field" and, at the same time, make a contribution to reducing the "gold flow problem." However, in its letter to the Deputy Postmaster General, dated October 16, 1965, the Bureau of the Budget expressed concern over the budgetary impact of an increase in price differentials and recommended against adoption of the proposed increase.

PROCUREMENT OF OLYMPIA TYPEWRITERS

With respect to the Olympia typewriters purchased for the Union City, Post Office, the Department's records showed that in September 1969 the Acting Postmaster for that post office requested the replacement of six manual typewriters that were about 19 years old and in very poor condition. The request was approved by the Department's Philadelphia Postal Regional Office, and six typewriters with a paper capacity of 13-1/4 inches were requisitioned from Olympia USA, Inc., under GSA contract GS-00S-79095. The Department's records and GSA's contract files indicated that the Department had, as we had recommended in our April 1966 report to the Postmaster General, submitted its fiscal year 1969 requirements for several types of typewriters to GSA for competitive procurement.

Our review of the GSA files showed that Olympia's bid of \$102,300 was the lowest bid submitted for the Department's fiscal year 1970 requirements for 1,100 manual typewriters with a paper capacity of 13-1/4 inches. The lowest domestic bid exceeded the Olympia bid by about 20 percent. Therefore, under the provisions of the act and of Executive Order 10582, the domestic bid was determined to be unreasonable and the contract was awarded to Olympia. The price for each typewriter was \$93. The six typewriters purchased for the Union City Post Office were of the type included in the GSA contract with Olympia. Consequently, six Olympia typewriters having a total cost of \$558 were delivered by the contractor to the Union City Post Office.

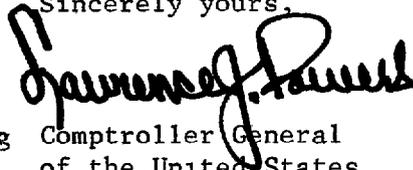
If GSA had awarded the contract for the typewriters to the American manufacturer that submitted the lowest domestic bid, the basic cost to the Government for the 1,100 typewriters would have been \$123,200 instead of \$102,300. In addition, Olympia offered a 2-percent prompt payment discount, whereas the American manufacturer did not offer a similar discount. Considering such discount, the bid price differential would have amounted to \$22,946 if the contract had been awarded to the American manufacturer.

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In accordance with arrangements with your office, the Department is being notified of the release date and general subject matter of this report.

We trust that this information will be helpful.

Sincerely yours,



Acting Comptroller General
of the United States

The Honorable William B. Widnall
House of Representatives