

Chairman PROXMIRE. He said you have no records identifying the costs or pricing data submitted. He did not say your records may not be adequate or precise enough or satisfactory. He just said no records. Do you reject that?

Mr. MALLOY. Again I don't know the specific case—

Chairman PROXMIRE. This is in most of the cases, 165 out of 242.

Mr. MALLOY. The question that the Comptroller General addresses himself to here, and as I say, we have been discussing these matters with the Comptroller General people, is the problem of documenting the connection between this mass of data which we have and the certificate. It is not a question of whether we are getting the data or not.

Chairman PROXMIRE. I want to come back again. Congressman Rumsfeld?

Representative RUMSFELD. Do you agree that having this cost data isn't really of much value unless you have the records relating to it?

Mr. MALLOY. We have the records, sir.

Representative RUMSFELD. Then the Comptroller General is wrong.

Mr. MALLOY. I am not saying that the Comptroller General is wrong. I am trying to explain the kind of records that we have.

NEGOTIATION PROCEDURE

In a normal procurement of the kind we are discussing here, we will send out to the contractor a letter asking for a quotation and send him the specifications and the requirements of the procurements, and ask him to submit a proposal plus certain kinds of cost or pricing data.

The contractor fills out our forms and submits this data to us. We take all this cost data, make our own preliminary analysis of it, give it to our auditors and send the auditors back out to the contractor's plant, where they check every one of those figures against the contractor's books and records and submit it as an independent audit report. All of these things are in the record so we have plenty of records.

After we get through the negotiation process, in which more data is often supplied, we then have to have the contractor execute the certificate. We are asking him to do that, and we are doing our best to insure that we know precisely what he had certified to. That was the point in developing a new form, the revised DD Form 633, where the instruction on that new form is much more precise than the old form. A proper following of that form, tying the figures to source data, will in our opinion and in the opinion of the Comptroller General be compliance with the law.

Representative RUMSFELD. I think maybe one of the problems I am having is that this hearing is going to show literally dozens of instances where you and the Secretary have said that you are "doing your best" and that "it is a difficult chore" and that you are "working hard at it" and that you are "being diligent." I don't think there is anyone on the committee who is suggesting that you are not "doing your best," or that you are not "working hard at it," or that it is not a "difficult chore."

ADEQUACY OF COMPLIANCE WITH THE LAW IS THE QUESTION

The question is whether you are complying with the law and whether you are doing well enough, and that isn't answered by saying you are