

And if they persist long enough, the Government eventually settles in their favor because the Government simply does not have the time, staffing, talent, or the memory to protect itself from unfounded change claims.

In past testimony I cited the case of an unfounded claim made by a construction contractor on a contract awarded him in 1961. We devoted considerable effort in writing this contract to protect the Government against unfounded claims. For example, we provided that no change would be authorized by other than a specifically designated Government representative, in writing; also that change orders had to be priced out before the contractor could proceed with the work. We carefully prepared the specifications in order to leave no uncertain areas and we warned the contractor in writing as to how we proposed to administer the contract so as to avoid unwarranted claims. Further, the contractor was given the opportunity to withdraw before the contract was awarded if he did not wish to perform on the basis we proposed. He did not withdraw.

After the job was completed, the contractor presented a claim for twice the contract price—a \$2 million claim above the approximately \$1 million contract price—despite our precautions in writing the contract. Seven years later, the claim is still not settled. It was denied by the contracting officer, but the contractor then appealed and the claim was accepted by a Government contract review board. The contracting officer, doubting the legality of payment, requested an advance decision of the General Accounting Office prior to paying the claim. The lawyers representing the contractor thereupon presented arguments pertaining to the question of whether or not the General Accounting Office had a right to review the claim. Nevertheless, the General Accounting Office ruled in the Government's favor. The contractor's lawyers promptly brought suit in the U.S. Court of Claims. The matter is still pending, 7 years after the original contract, and I certainly hope that the time spent in defending the Government's interest will not be in vain.

Now, I doubt that the Atomic Energy Commission would consider awarding future contracts to this particular construction contractor or to any contractor who has submitted unfounded and exorbitant claims against prior contracts with the Commission. But without a system for determining Government-wide experience with contractors, there is no way for another Government agency to determine if a fixed-price construction proposal from this same contractor is responsible. Thus many contractors are allowed to continue doing business with the Government regardless of how much time and effort the Government must expend on unfounded claims or in haggling over contract interpretations to resolve contractor claims.

The problem of claims against the Government is aggravated because Government contracts are not promptly closed out after work is completed. This allows contractors ample time to prepare and submit claims. In one case, I received a claim from a construction contractor a year after the work was done. I try to insure that contracts under my responsibility are closed out promptly after completion of the work in order to protect the Government from unfounded claims. However, it is my experience that the Government, as a whole, does not place enough emphasis on this aspect of procurement.