**CONNER BROTHERS
CONSTRUCTION COMPANY, INC.**

CONTRACT NO. V101C-1372 **VABCA-2504, 2657,**

2742-44, 3836-37

**VA MEDICAL CENTER
TUSKEGEE, ALABAMA**

Rodney C. Jones, Esq., and ***Bowman S. Garrett, Jr., Esq.***, Lyon, McManus and Jones, Atlanta, Georgia, for the Appellant.

James Petersen, Esq., Trial Attorney, and ***Phillipa L. Anderson, Esq.***, Acting Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

OPINION BY ADMINISTRATIVE JUDGE ROBINSON

These seven appeals by Conner Brothers Construction Company, Inc. (CBCC or Contractor) were taken from the Contracting Officer's (CO's) final decisions, or failures by the CO to issue decisions, on claims arising from a contract encompassing the construction of a new hospital building, renovation of an existing building, and the demolition of a third building, at the Department of Veterans Affairs (VA) Medical Center, Tuskegee, Alabama.

A five day hearing on these seven consolidated appeals was held in Montgomery, Alabama (Vol.'s I - V). This was followed by the sworn telephone testimony of one witness (Mr. Haspiel) who was too ill to attend he hearing (Vol. VI). The record for decision in these appeals consists of the six volume transcript (including the 25 "flipcharts" which several witnesses prepared to illustrate their testimony), together with Rule 4 files which were prepared for the appeals: No. 2504 R4, tabs 1-50; No. 2657 R4, tabs 1-28; Nos. 2742 & 3836 R4, tabs 1-39; Nos. 2743 & 3837 R4, tabs 1-22; No. 2744 R4, tabs 1-32. In addition, the parties submitted consolidated hearing exhibits: Appellant's Exh. A-500 through A-656; Government's Exh. G-1 through G-224; Board Exh. B-1 and B-2. Because of time constraints at the hearing, the parties were allowed to submit affidavits by Messrs. Conner and Haspiel in further support of their respective positions in two of the appeals (VABCA Nos. 2657 & 2744) Finally, the Board allowed supplemental affidavits by Messrs. Quicker, Adkins and Gymory concerning CPM scheduling and other issues left open at the conclusion of the hearing.

Three other appeals were litigated with the seven listed above. Those appeals, VABCA Nos. 2519, 2656 and 3595, were the subject of an earlier opinion which the Board issued on December 30, 1994 (95-1 BCA ¶ 27,409).

PRELIMINARY EVIDENTIARY MATTERS

Background

VABCA No. 2504 involves a claim for additional costs and time which Appellant

claims to have expended in connection with placing electrical conduit in the interstitial (overhead) spaces rather than in the floor slabs. Appellant contends that the contract plans were defective and misled it into the belief that conduit could be placed in the slab. It further contends that the VA erroneously interpreted its own specification in imposing an unreasonable (3" min. concrete thickness) restriction on conduit placement in the slabs.

The VA had originally denied all responsibility for Appellant's decision to place conduit in the overhead, and took the position that the three inch minimum concrete coverage requirement was clearly applicable to this situation. After much discussion and correspondence over an extended period of time, the Contractor filed a claim for $169,363 (plus 36 additional calendar days) and demanded a CO's final decision. The CO issued a final decision denying the claim in all respects. The Contractor's appeal was docketed as VABCA No. 2504.

VABCA No. 2742 involves a claim for additional costs and time which Appellant claims to have expended in connection with the redesign of a footing for the west bridge connector between existing Building 3A and new Building 120. the Appellant contends that the elevation of an unanticipated buried steam line caused an interference with the planned footing, through no fault of the Contractor's, and that the subsequent "fix," including time lost during redesign and delayed access for other activities on the project's critical path, caused both direct and time-related costs (impact and payment of liquidated damages).

The VA had originally instructed its Architectural Engineering firm ("A/E") to redesign the footing to accommodate the steam line. Thereafter, no VA representative sought to place the responsibility for the problem on the Contractor. As a matter of fact, for a period of nearly six years (Aug. '86 - May '92), the only bone of contention between these two parties was the pricing of the change order and the duration and cost of any delay which had impacted the Contractor's planned schedule of construction activities. The Contractor eventually filed a claim for $317,958 and 127 additional days. The total claim figure included direct and indirect costs of the change order as well as the extended home office overhead associated with the 127 days of alleged delay to its critical path activities. The parties exchanged correspondence for many months without resolution of their differences. As a result of the failure to reach an agreement with the VA on the greater part of the costs and time claimed, CBCC eventually demanded a CO's final decision. When no such decision was issued within the sixty days allowed by the CDA, the Contractor filed an appeal from the deemed denial. That appeal was docketed as VABCA No. 2742.

Subsequent to docketing of VABCA Nos. 2504 and 2742, the CO, on March 19, 1990, issued six *unilateral* settlements by determination ("S/D's"), as final decisions subject to appeal, dealing with cost and time elements of these same "Conduit in slab" and "West Bridge footing" claims. Each S/D was on a Standard Form 30 ("SF-30" contract modification form). However, the forms indicated that the Contractor need not sign. In each Description block of the SF 30's, the CO had stated that the time or dollars allowed was "in settlement of" the direct costs, indirect costs or time/liquidated damages portion of the claims docketed as either VABCA No. 2504 or VABCA No. 2742. The Contractor was advised in the text of each document that the amount offered by the CO constituted

full and complete compensation for that aspect of the claim which the particular unilateral change order covered (whether regarding direct costs, indirect costs or time/relief from liquidated damages). This language was followed by a statement that it was the CO's final decision, with the full explanation of the Contractor's appeal rights under the CDA. After a period of unsuccessfully attempting to persuade the VA to increase the amounts allowed in these S/D's, the Contractor filed timely appeals of all six of these unilateral S/D's/final decisions and they were docketed as follows:

Conduit in Slab Claim

VABCA No. 3240	(S/D#2)	Granting Direct Costs of $37,635.95
VABCA No. 3241	(S/D#3)	Granting Indirect Costs of $37,197.83
VABCA No. 3244	(S/D#6)	Adding 36 Calendar Days, with Pro-Rata Remission of Liquidated Damages

West Connector Footing Claim

VABCA No. 3242	(S/D#4)	Granting Direct Costs of $7,088.84
VABCA No. 3243	(S/D#5)	Granting Indirect Costs of $11,070.02
VABCA No. 3239	(S/D#1)	Adding 20 Calendar Days, with Pro-Rata Remission of Liquidated Damages

In granting the $7,088.84 under S/D #4, the CO stated that this sum superseded and canceled the $14,000 which the VA had previously granted in its unilateral Central Office Change Order ("COCO") No. 3, dated May 18, 1987. Also, for reasons not explained, some of the above amounts included CDA interest, while others did not. Because of the determination which follows, that information, while of interest, is unnecessary to the disposition of the appeals before the Board.

In a subsequent prehearing conference, the Board proposed, with agreement by both parties, to dismiss VABCA Nos. 3239 through 3244. That action was taken since all of the issues involved in Appellant's claims underlying VABCA Nos. 2504 and 2742 had essentially been duplicated in these six final decisions of the Contracting Officer. All documents filed with these six appeals, including S/D #1 through S/D #6, were then incorporated into the record of the still-pending appeals.

When the parties filed their May 21, 1992 joint prehearing statement, the VA took the position that the six unilateral S/D's constituted no admission of liability, being no more than (rejected) offers of settlement. The VA did, however, concede that the core issue of entitlement to direct costs for the footing/steam trench change order was not in dispute - only the amount of those costs as well as the Contractor's entitlement to any time-related costs. Counsel demanded that the Appellant prove entitlement as well as every dollar of quantum and day of delay caused as a result of the conduit in slab problem. The Appellant has taken the position that these six S/D's were binding admissions of liability by the VA, and that entitlement is no longer an issue in VABCA No. 2504. At the start of the hearings on these appeals, the Appellant's President sent a letter to the Board

attempting to withdraw its appeal of S/D #6, which had allowed 36 calendar days in connection with the conduit in slab claim (VABCA No. 2504). The Board has not yet ruled on the legal effect of this action by the Appellant. Counsel argues that by withdrawing that appeal the Contractor has now bound the Government to an admission of basic entitlement in that appeal.

The Board informed both parties that this is a *de novo* proceeding and advised Appellant to present its proof of entitlement as well as every dollar of quantum/day of delay in the claims. The Board did not, however, express any opinion regarding the evidentiary value of, or inferences to be drawn from, these *unilateral* determinations of liability and quantum made by the Government. At the hearing, the Government did challenge the Appellant's position on entitlement in VABCA No. 2742. Government counsel argued that there was no "differing site condition, "as the steam line was shown on several drawings which were in Appellant's possession prior to bidding, and that Appellant was aware of the steam line long before its August, 1986 discovery. Both parties have addressed the issue in their post-hearing briefs.

Also during the hearing, the CO testified that he was uncomfortable with the actions taken in justifying the several S/D's, although he had little personal recollection of the particulars involved. He was clear, however, that the VA's basis for issuing these S/D's was the result of some type of pressure, from outside the agency, to settle these outstanding appeals. (Tr. V/1593-94)

Settlement By Determination - Discussion/Ruling

Turning first to VABCA No. 2504, the "conduit in slab" claim, the Board considers itself bound by the Federal Circuit's decision in ***Wilner v. United States***, 24 F.3d 1397 (1994). The court, sitting *in banc*, vacated its earlier decision (reported at 994 F.2d 783 (1993) - "***Wilner I***") In its *in banc* decision ("***Wilner II***"), the court refused to afford *any* evidentiary weight to admissions made or positions taken by the Government in final decisions rendered by its contracting officers pursuant to the Contract Disputes Act (CDA). Once those decisions have been appealed, the resultant proceeding is *de novo* in the strictest sense of the term, placing the burden squarely upon the claimant to establish each and every element of liability and any resultant damages or quantum. This evidentiary burden, together with the prohibition against even an inference of Government liability in the underlying dispute, pertains whether before the Federal Claims Court or before a board of contract appeals. ***Wilner II*** at 1401, *citing* ***Assurance Co. v United States***, 813 F.2d 1202 (Fed. Cir. 1987).

Since the Court's decision in ***Wilner II*** directly addressed a CO's attempt to unilaterally settle a claim by issuance of a final decision, we consider the situation with respect to these S/D's to be governed by the *de novo* review principles restated by the *in banc* majority in ***Wilner II***.

In summary, therefore, the Contractor had the choice to accept the CO's three decisions and to end this matter. By rejecting what was nothing more than an attempt by the CO to settle the appeals, the Appellant effectively chose to begin at "square one" with respect to proving every element of its claim. What an appellant cannot do, pursuant to the rule articulated by the Court of Appeals, is to accept (and bind the Government to) what has

been offered and treat such concession as a "floor" from which to seek even greater remuneration. Upon the filing of an appeal from a CO's final unilateral decision awarding a set amount of money on a hitherto contested claim (both entitlement and quantum), '[t]he appeal has the effect of *vacating* the contracting officer's decision on the merits of the dispute." (Emphasis added) ***Allen County Builders Supply***, ASBCA No. 41836, 93-1 BCA ¶ 25,398 at 126,492-93, *citing* ***Assurance Co. v United States***, 813 F.2d 1202 (Fed. Cir. 1987). If entitlement hinges on a question of contract interpretation, the Contractor must meet its requisite burden of persuasion in any proceedings following the appeal. ***Allen County Builders****, supra*.

The Appellant's March, 1993, letter attempted to withdraw its appeal from the CO's decision which had allowed a 36 day time extension and remission of liquidated damages in connection with the conduit in slab claim - S/D #6. It took the position that its June 15, 1990 appeal from the CO's April 3, 1990 Settlement by Determination #6 was "inadvertent." As we have already discussed, the CO's unilateral Settlement by Determination (S/D #6) was no more than an offer to settle. The Contractor could have accepted that offer and irrevocably bound the Government to the deal (entitlement to 36 cal. days). Its other option, which it chose, was to appeal that offer, made in the form of an appealable final decision, to this Board. That appeal operated as a rejection of the VA's offer of settlement. Having once rejected the Government's offer, the Appellant cannot now unilaterally resurrect that offer and bind the Government with belated acceptance by simply withdrawing its appeal. Once the CO's decision has been *vacated* (by an appeal), it is canceled/rescinded. **BLACKS LAW DICTIONARY**, 1548 (6th ed. 1990).

All of these S/D's concerned issues already before the Board in an appeal from the CO's denial of the conduit in slab claim. Although this somewhat confused matters, it does not alter our view, we believe consistent with ***Wilner II*** and ***Assurance***, that these three S/D's were merely unsuccessful attempts by the VA to settle the Appellant's claims. For the above reasons, the issues of both entitlement and quantum remain in dispute and subject to this Board's *de novo* review in VABCA No. 2504.

With respect to *entitlement*, the Board is presented with an somewhat different situation in VABCA No. 2742, the "west connector footing" claim. There, the VA immediately took responsibility for the misleading (new) footing elevation on its structural drawing detail (to be discussed *infra*), and issued several preliminary unilateral change orders, each time admitting to the underlying directed change in footing elevation and slight change in configuration, but altering the monetary amount and/or numbers of days granted. At no time prior to preparation for litigation before this Board did the Government ever attempt to deny responsibility for the change itself. The record clearly establishes that the Appellant awaited and later received the promised VA direction on how to proceed (including a revised footing detail), thus incurring certain costs in *reliance* upon the VA's acceptance of responsibility for correcting the situation. For all of the foregoing reasons, we consider ***Wilner II*** to be inapposite with respect to the entitlement issue in this particular claim. Furthermore, for reasons to be discussed *infra*., the Board does find that the VA's relevant footing drawing was in error and that the Contractor was indeed entitled to a compensable change order to deal with the situation occasioned by the misleading information on the drawing.

Insofar as the time and money offered by the VA in these three S/D's, however, they were no more than offers to settle which were rejected by the Contractor upon appeal to the Board. No amount of time nor money has ever been the subject of a bilateral agreement between these parties. All time and money sought in connection with the west bridge connector claim is thus subject to the usual burdens of proof in a *de novo* proceeding, consistent with our discussion, *supra*.

GENERAL FINDINGS OF FACT

On July 24, 1984, the VA issued Solicitation No. 8225 for its Project No. 680-060, titled "Replace Bed Building No. 62" at its Tuskegee, Alabama Medical Center (VAMC Tuskegee). In addition to replacing Building No. 62 with an entirely new five story Bed Building No. 120 (with an open grade-level deck available for future enclosure and conversion to Ground and First floors), the project included connecting the new bed building to existing Building No. 3A by means of a tunnel - the "South" (from Bldg. 120) tunnel, and two upper floor bridge connectors (the "East" and "West" connectors). The South tunnel was to run beneath an open landscaped courtyard to be constructed between Buildings 120 and 3A. The project also called for construction of another tunnel from the western end of Building No. 120 to existing Building No. 5 (the "West tunnel"). In addition to these major construction elements, the project called for relocation of affected utilities, together with construction and/or repaving of roads, parking lots and related facilities. All of the above-described work was within the scope of "[Bid] Item I: General Construction." In addition to Bid Item I, the Solicitation required bidders to price six "Alternate Bid Items," which would be awarded subject to the availability of funds.

The Architect Engineer firm (A/E) which assisted the VA in the project design and preparation of detailed plans and specifications was Dampier-Harris & Associates of Alabaster, Alabama. The two volumes of specifications, together with a set of 180 drawings, were included in the Solicitation, and (as amended) became part of the subsequent construction contract. In addition to the technical material, the contract also contained the standard clauses mandated by the Federal Acquisition Regulations (the FAR) and by the VA Acquisition Regulations (the VAAR) for inclusion in VA construction contracts.

The Government had sufficient funds available to cover all of the prices which had been bid by Conner Brothers Construction Co., Inc.. Accordingly, on September 28, 1984, the CO awarded the contract for Item I plus Alternates 1 through 6 to CBCC for a lump sum price of $9,802,000. (R4, tabs 6, 7)

On October 29, 1984, the Contractor received the VA's Notice to Proceed with the work, with completion scheduled for no later than 790 calendar days thereafter - by December 28, 1986. The work was to be done in four phases. Phase A was the clearing and site preparation phase. Phase B was the construction of Bed Building 120 and the tunnels, corridors and improvements to Buildings 3A and 5. The contract called for these first two phases to be done consecutively. After Phase B was completed, Phase C, parking lot and driveway construction and Phase D, Building 62 demolition, could be done at the same time.

During the course of Phase A construction, involving demolition of structures, relocation

of utilities construction of temporary parking lots, site preparation. and other such preliminary work, the Contractor encountered a variety of problems involving buried structures and utility lines not accurately depicted on the contract documents. Between November, 1984 and September, 1986, although the VA issued many modifications to compensate CBCC for dealing with these unforeseen conditions, no additional time was granted. (Exh. A-598) Mr. Quicker, the Contractor's scheduling consultant, interpreted the contract in such a manner (and so advised his client) that no extension of the contract completion date would be warranted until the available "float" shown on the Contractor's VA approved network analysis (CPM) was depleted. As a means to somewhat alleviate the problems encountered by the Contractor in Phase A, the VA permitted CBCC to begin (previously sequential) Phase B while Phase A activities were still ongoing.

VABCA NO. 2504: CONDUIT IN SLAB

Nature Of The Dispute

This dispute involves the conflict between a specification requirement that no conduit be installed in concrete less than 3 inches thick and drawings which call for installation of a substantial amount of wiring/conduit in composite concrete floor slabs on the third and fourth floors of Building 120, where only 2½ inches of concrete are required in certain areas of the slabs. According to the Appellant, the VA's refusal to allow conduit installation in the 2½ inch "ridges" formed by the metal decking within which the concrete was poured, restricted conduit installation to the "valleys," rendering the planned conduit installation in the floor slabs impractical. Because of the VA's interpretation of the specification, Appellant asserts that its electrical subcontractor was forced to abandon further floor slab installation and to instead route the affected wiring/conduit through by-then congested spaces above the ceilings. As a result, it alleges increased direct costs as well as disruption and delay to its own construction activities (installing wall partitions) affecting project completion.

The VA's position has been first, that the specification with respect to the 3 inch minimum concrete requirement was clear and unambiguous and that it is entitled to strict compliance It also argues that Appellant failed to inquire as to any conflict between drawings and specifications prior to bidding the project nor did it follow the contractual instruction that in a case of conflict with drawings, the specifications would govern.

FINDINGS OF FACT

Section 16111 of the specifications relates to electrical conduit systems. Paragraph 3.3.A.4 concerns "CONCEALED WORK INSTALLATION . . . IN CONCRETE." There is no other language governing conduit concealed in concrete. The specification reads as follows:

4. Conduit shall not be installed in concrete which is less than three inches thick.

a. Conduit outside diameter larger than 1/3 of the slab thickness is not permitted.

b. Spacing between conduits in slab shall be approximately six conduit diameters apart [except] one conduit diameter at conduit crossings.

c. Conduits shall be installed approximately at the center of the slab so that there will be

a minimum of 3/4 inch of concrete around them.

This project called for construction of poured-in-place concrete floor slabs on the third and fourth floors of Building 120 (as well as on the plaza level). The concrete was to be poured into corrugated 20 gauge steel decking welded to supporting steel beams. Contract Structural Drawings 120-S4, Details 1/S3 and 2/S3 (the 3rd & 4th Floor East Framing Plan Sections), and 120-S5, Details 1S/5 and 2S/5 (the 3rd & 4th Floor West Framing Plan Sections), each showed side views of two composite floor slabs, with one slab typically supported by perpendicular beams and the other typically supported by parallel beams. On both drawings, the details showed the slabs with a series of ridges and valleys resulting from the periodic intrusions of the convex portions of the corrugated metal decking into the slab. Because of these intrusions, the actual concrete thickness at the ridges was given as 2 ½ inches, while the thickness at the valleys was stated to be 5 ½ inches. These slabs, as depicted on the drawings, were identified as "Composite Slabs" and also as "5 ½" Concrete Slabs."

Adjacent to the 2½ inch concrete ridge thickness dimension on Detail 1/S5 of Drawing 120-S5, was the following language: "SEE NOTE 3, SHEET 120/S3 (TYP.)" NOTE 3 read as follows:

SLAB DIMENSION OF 2½" IS MIN. THICKNESS AT SUPPORTS. THIS DIMENSION WILL INCREASE AWAY FROM SUPPORTS DUE TO DEFLECTION OF BEAMS AND DECK. MAX. AMOUNT OF DEFLECTION TO BE AS SPECIFIED BY DECK MANUFACTURER. - TYPICAL FOR ALL STEEL DECK CONSTRUCTION. THIS SHOULD BE TAKEN INTO ACCOUNT FIGURING CONCRETE QUANTITY.

The "General Electrical Legend" found on Electrical Contract Drawing 120-E1 contained, *inter alia*, distinctive symbols depicting: branch circuits concealed in walls or ceiling; branch circuits exposed on wall or ceiling; branch circuits concealed in floor slab or dirt fill; and, homeruns to panels. The Electrical Lighting Plans showed this third and fourth floor wiring (both branch and homerun circuits) to be concealed in the walls and the ceilings of the East and West Wings. (Drwngs. 120-E16, E17, E22, E-23) On the other hand, the designated symbols on the Electrical Power Plans showed that particular wiring (both branch and homerun circuits) as broken ("stitched") lines, which the Legend indicated to be concealed in floor slabs. (Drwngs. 120-E18, E19, E24, E25)

Consistent with these drawings, the electrical subcontractor, Auburn Electric, (Auburn) planned to install a significant amount of its wiring in conduit to be encased in the floor slabs of the third and fourth floors of Building 120. The Subcontractor also planned to run certain circuits through conduit to be installed above the ceilings of these two floors of the building. CBCC submitted its progress schedule (using the specified critical path method or "CPM") to the VA for approval. CBCC's CPM assumed Auburn's anticipated methods of conduit installation in both slabs and ceilings/walls. The VA approved this aspect of the CPM without commenting upon or questioning the planned conduit installation. Neither CBCC nor Auburn, at any time prior to bidding the project or inception of this dispute, notified the Government that there might be a conflict between the specification and the drawings. The only Auburn employee to testify was the Project Manager, who had nothing to do with preparing Auburn's bid to CBCC. (Exh. A-500;

Exh. A-633, 3/10 - Arrow Diagram; Tr. II/518)

After contract award, Mr. Quicker, CBCC's Scheduling Consultant, had to meet with the subcontractors to incorporate their particular trades into the arrow diagram for the overall project CPM. At the very first such meeting with the Auburn representative, Mr. Quicker thought it unusual that all the power circuits were indicated (by stitch lines) to be placed in the deck slabs, as opposed to wall/ceiling installation (by solid lines) that he had usually seen. He testified to the conversation as follows:

Auburn says, 'Now wait a minute, we have a drawing called the power drawing and that is the way they usually separate out power and light, and they said the power drawing looks like this,' and we turn to it, because it is unusual, and I say 'Wow, look at that, isn't that interesting.'

The entire plan is basically stitch lined or called out to be in the decks. Now, I am aware of the VA specifications from Conner pre[?], and I have my own feelings on it that allowed me to say that, 'well, I think that the architect intended to do this, and I think that this is permitted and I know the VA is probably not going to be aware of it or like it, but that is really what they call out for.'

And Auburn convinces me that this is what they are supposed to put in, and I am not there to decide, you know, what the VA wants or doesn't want by contract. I came to the conclusion that this was what the VA wanted and so we diagrammed it that way right from the start.

(Tr. III/790-92)

In October of 1985, as Auburn was installing conduit within the floor slab forms, the SRE became aware of the problem with the minimum 3 inch coverage requirement. His memory of the event 8 years. earlier had diminished by the time of his deposition, so that it is not clear whether it was first raised by the VA or by the Contractor. Auburn's Project Manager had no personal knowledge in this regard, and could only relate a hearsay statement, by an individual not called to testify, that the SRE had broached the problem with the Subcontractor. In any event, the 3 inch concrete requirement for conduit placement became an issue in October, 1985, after Auburn had already placed conduit in one quadrant of the floor slab at the East end of the plaza ("mezzanine") deck. (Exh. B-1, at 34, Tr. VI/10-11, 48-50; Tr. II/520)

As a result of this problem, and after field discussion between the SRE and the Contractor, Ted Day, Auburn's Project Manager (acting through CBCC), requested that the VA grant what Auburn then termed a "variance" from the three inch concrete requirement of Section 16111-3.3.A.4 of the specifications. In his letter, Mr. Day explained that since "the concrete topping on the ribbed floor decking will be approximately 2½" thick at the high point of the ribbing," the strict enforcement of the three inch requirement would render it "virtually impossible for [Auburn] to run all branch circuitry conduit in the valley portion of the rib decking." The letter from Auburn was immediately forwarded to the SRE by CBCC's Vice President, Mr. Charles McDonald. He added no other comments to those expressed by Mr. Day. (R4, tab 9)

The SRE forwarded the Contractor's request for the "variance" to the Project Supervisor in Washington, D.C., Frank Sullivan. Mr. Sullivan acted as the representative of the project's Contracting Officer, and as a liaison between the VA field office and the various VA technical support services located at the VA construction headquarters in Washington. The VA's Southern Electrical Design and Review Division recommended disapproval of the Contractor'