

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

40913

FILE: B-181512

DATE: July 5, 1974 95277

MATTER OF: Charles Bluestone Company, Inc.

**DIGEST:** Where mistake in bid on item in surplus sales contract was alleged after award, and bid for said item was more than eight times current market appraisal, more than 100 times only other bid for that item, and the bid for the item was out of sequence with the other bids submitted by that bidder. there is clear and convincing evidence of a mistake in bid and that the contracting officer should have detected the mistake. GAO will not object to administrative recommendation to delete subject item from contract.

Charles Bluestone Company, Inc. (Bluestone), has requested relief in the form of deletion from its surplus sales contract of an item for which it has alleged, after award, that a mistake was committed in the submission of its bid.

The Defense Supply Agency's Defense Property Disposal Service (DPDS), Columbus, Ohio, offered various items of scrap for public sale in Invitation for Bids No. 27-4242. The subject firm submitted bids on ten items, and received an award on April 8, 1974, for various items, including item 58, advertised as 20,000 pounds of scrap rubber.

By telephone conversation of April 10, 1974, and by letter of April 16, 1974, Bluestone advised the contracting agency of a mistake that had been allegedly committed with regard to item 58, for which the firm had submitted a unit price of \$.3351. It was stated that the bid was intended for item 53, which was 20,000 pounds of brass scrap, but that the typist preparing the bid inadvertently typed 58 rather than 53. It was also noted that the subject concern is a wholesaler dealing exclusively in non-ferrous metals and has no use for the surplus rubber.

We are advised that the current market appraisal for item 58 established prior to the sale was \$.04 per pound and the only other bid submitted for that item was in the unit price of

\$.0032. Moreover, it is reported that the fact that the current market appraisal for item 53 is \$.25 per pound, and that bids thereon ranged from \$.1379 to \$.7272 lends credence to Bluestone's assertion that its bid was intended therefor. Additional evidence tending to corroborate Bluestone's allegation is provided by the order of bids submitted by Bluestone disclosing that, except for item 58, which appeared between items 46 and 54, all other items were entered in numerical sequence. On the basis of the foregoing, the contracting agency is of the opinion that there is clear and convincing evidence of the mistake, and that the contracting officer should be charged with notice of the error prior to award. Accordingly, deletion of item 58 from the contract is recommended.

Our Office has held that if a bidder commits a unilateral mistake, he is bound by the contract as awarded unless the contracting officer knew, or should have known, of the mistake at the time of award. If the contracting officer was actually or constructively on notice of the mistake, relief may be granted. 49 Comp. Gen. 199, 201 (1969); B-177446, January 23, 1973. In view of the contracting agency's admission that the sales contracting officer should be charged with notice of the error prior to award, and of the fact that Bluestone's bid for item 58 was more than eight times the current market appraisal and more than 100 times the only other bid for that item, and of the fact that the bid for item 58 was out of sequence with the other bids submitted by Bluestone, our Office will not object to a rescission of that part of the contract based on item 58.

  
Deputy Comptroller General  
of the United States