

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

50935

FILE: B-184257

DATE: July 22, 1975

97348

MATTER OF: Skymart Aviation, Inc.

DIGEST:

Invitation for aircraft services requested basic per hour bids up to guaranteed monetary minimum on one item and reductions from basic bids for services in excess of minimum. Where contracting officer failed to verify low bid containing apparent inconsistency, i.e., same bid price for two items raising clear possibility of error in either basic bid price or bid price reduction in view of improbability of furnishing services beyond minimum at no cost, acceptance of bid did not result in valid and binding contract, since contracting officer was on constructive notice as to possibility of mistake.

By letter of June 19, 1975, with enclosures, the Deputy Director, Office of Operations, United States Department of Agriculture, Office of the Secretary, requested a decision with respect to a bid mistake alleged by Skymart Aviation, Inc. (Skymart).

The Forest Service in Bozeman, Montana, issued an invitation for bids (IFB) for furnishing fully operated aircraft services at Great Falls, Montana. The IFB called for bids on items 1A and 1B. Item 1A requested the bid price per flight hour up to and including the guaranteed minimum aggregate amount of \$8,000 worth of services purchased during the contract period. Item 1B requested the bidder's offered reduction, if any, in bid price per flight hour after the aggregate amount of services purchased under item 1A equalled \$8,000. The IFB clearly indicated that the entry under item 1B would be interpreted as the amount to be deducted from the per hour price bid under item 1A.

At bid opening on April 18, 1975, eight bids were received as follows:

	<u>Item 1A</u>	<u>Item 1B</u>
Skymart Aviation	\$34.00	\$34.00
Holman Aviation	37.50	.50
Mountainair Aviation	44.00	--
Lynch Flying Service	45.00	1.00
MeadowLark Aviation	46.00	--
Hensley Flying Service	47.00	--
Warren Aviation	48.95	--
F. A. Catalano	80.00	--

As a result of Skymart's low bid of \$34.00 per flight hour on item 1A, the firm was awarded contract No. 11-789 on May 1, 1975.

Upon receipt of the contract on May 5, 1975, the Chief Pilot for Skymart telephoned the contracting officer, informing him that, in computing its bid, Skymart had failed to include the \$10 per hour cost of furnishing a pilot for the required aircraft. In a letter to the contracting officer dated May 6, 1975, Skymart stated its intended bid was to have been \$44 per hour and claimed that performing at the contract price would constitute a financial hardship. Unless the amount of \$42 per hour was acceptable, Skymart requested release from the contract.

The responsibility for preparation of a bid rests with the bidder, and therefore Skymart must bear the consequences of its unilateral mistake in bid unless the contracting officer was on actual or constructive notice of the possibility of error prior to award. Constructive notice is imputed to the Government where, under the facts and circumstances of the particular case, there are factors which reasonably should have raised the presumption of error in the mind of the contracting officer. 49 Comp. Gen. 272 (1969); 53 Comp. Gen. 30 (1973).

In recommending that Skymart be relieved of the contractual obligation (rather than reformation of the contract at a price which would displace the second low bidder), the contracting officer relies, in part, on the considered improbability that the firm intended to furnish aircraft services beyond the \$8,000 aggregate level at no cost which is the net result of the bid's showing a price of \$34 per flight hour for both item 1A and 1B. This manner of inconsistent bidding on the two items raised the clear possibility of error either in the basic bid price per hour or in the bid price reduction for services beyond the \$8,000 level.

This situation is analogous to those decisions of our Office which have involved the submission of bids containing a discrepancy between unit prices and extended prices where, as here, the contract was awarded without bid verification. We have held that such a discrepancy is sufficient to put the contracting officer on constructive notice of the possibility of error, and, consequently, acceptance of the bid without verification did not result in a valid and binding contract. See 51 Comp. Gen. 488 (1972); and B-179587, September 27, 1973.

Accordingly, since Skymart has presented evidence sufficient to establish the existence of the mistake in its bid, the recommendation of the contracting officer that Skymart be relieved of its obligation to perform under the contract is approved.

  
Deputy Comptroller General  
of the United States