

DOCUMENT RESUME

02405 - [A1602585]

[Protest against Displacement as Primary Contractor as the Result of a Clerical Error Correction]. B-186511. June 2, 1977. 3 pp.

Decision re: B & P Printing, Inc.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).  
Contact: Office of the General Counsel: Procurement Law II.  
Budget Function: General Government: Other General Government (806).

Organization Concerned: Alector Graphics, Inc.; Department of Commerce.

Authority: F.P.R. 1-2.406-2. B-182485 (1975). B-185058 (1976).

Company protested against its displacement as primary contractor as a result of the Department of Commerce's allowing another bidder to correct a clerical error in its bid. A bidder may not explain a bid's meaning when it is subject to two interpretations, only one of which makes the bid low. Protest was sustained, and contract should be terminated. (QM)

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**DECISION**



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

FILE: B-188511

DATE: June 2, 1977

MATTER OF: B&P Printing, Inc.

**DIGEST:**

Comma typed immediately before figure indicating percentage discount for prompt payment where no punctuation was needed makes bid reasonably subject to two interpretations. Where bid is reasonably subject to two interpretations only one of which makes bid low, bidder may not explain bid's meaning and thereby prejudice other bidder. Therefore, award to other than low bidder should be terminated.

B&P Printing, Inc. (B&P), protests its displacement as the primary contractor as a result of the Department of Commerce allowing Alector Graphics, Inc. (Alector), to correct a clerical error in its bid under invitation for bids 7-35521, a requirements contract for short-run duplicating programs. The Department of Commerce agreed to place orders for all its requirements with the primary contractor, and the primary contractor agreed to provide all services up to its production capacity before the Department places any orders with the secondary contractor. Eight contractors submitted bids. There are two relevant parts to the bids in this case: a discount or increase from the base price and a prompt payment discount.

Alector's bid provided for a ".7%" prompt payment discount. The bid opening officer erroneously read this as a ".7%" prompt payment discount. A 7% discount would make Alector the low bidder.

Based on the 0.7% discount, the Department of Commerce informed Alector on March 1, 1977, that B&P would be the primary contractor. At that time Alector informed the Department that its bid was for a 7% discount rather than a 0.7% discount. The Department then made a closer examination of the bid and noted that the 7 was indeed preceded by a comma and not a decimal point, and a representative of Alector delivered the workpapers to verify that the typist had made a mistake in placing the comma there.

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The Department of Commerce allowed Alector to correct the mistake under the authority of Federal Procurement Regulations (FPR) § 1-2.406-2 (1964 ed.) which states:

"Any clerical mistake, apparent on the face of a bid, may be corrected by the contracting officer prior to award, if the contracting officer has first obtained from the bidder verification of the bid actually intended. Examples of such apparent mistakes are: obvious misplacement of a decimal point; obviously incorrect discounts (for example, 1 percent 10 days, 2 percent 20 days, 5 percent 30 days); obvious reversal of the price f.o.b. destination and the price f.o.b. origin; and obvious mistake in designation of unit. Correction shall be reflected in the award document."

We have previously held that FPR § 1-2.406-2 requires that the mistake be obvious on the face of the bid and that the contracting officer be able to ascertain the intended bid without benefit of advice from the bidder. Sundance Construction, Inc., B-182485, February 28, 1975, 75-1 CPD 123. We therefore conclude that, unless Alector's mistake was obvious on the face of the bid and unless the contracting officer would have been able to ascertain the intended bid without benefit of advice from Alector, the prerequisites of FPR § 1-2.406-2 are not met.

We have also held that, where a bid is reasonably subject to two interpretations, a bidder may not explain the bid's meaning when he thereby would be in a position to prejudice other bidders. Inflated Products Co., Inc., and Brunswick Corporation, B-185058, August 9, 1976, 76-2 CPD 135.

Alector argues that, since a comma is used to separate ideas, it should not be reasonably interpretable as a decimal. We disagree. Alector's bid read "    % 30 calendar days; ,7 % 21 calendar days." We note that there was already a semicolon before the 7 to separate it from the 30-day discount. Therefore, no punctuation was needed. We also note that the comma was typed immediately before the 7 where one could reasonably interpret it to have meant a decimal. We conclude that Alector's bid is reasonably subject

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to two interpretations. The Department of Commerce's conduct supports this conclusion. The Department first interpreted the discount as 0.7 percent. When it was made aware of the comma by Alector, it immediately requested Alector's workpapers and thereafter considered its discount as 7 percent. Since correction here resulted in displacing a lower acceptable bid (B&P), the correction was not properly made. The integrity of the formal advertising system would be substantially undermined if bidders could submit ambiguous bids and then clarify them after all bids are open.

Therefore, the protest is sustained and we recommend that the Department of Commerce immediately terminate its contract with Alector for the convenience of the Government and make an award to B&P if it is otherwise entitled thereto.

Since this decision contains a recommendation for corrective action, we have furnished a copy to the congressional committees referenced in section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. § 1176 (1970), which requires the submission of written statements by the agency to the House Committee on Government Operations, Senate Committee on Governmental Affairs, and Committees on Appropriations concerning the action taken with respect to our recommendation.

  
Deputy Comptroller General  
of the United States