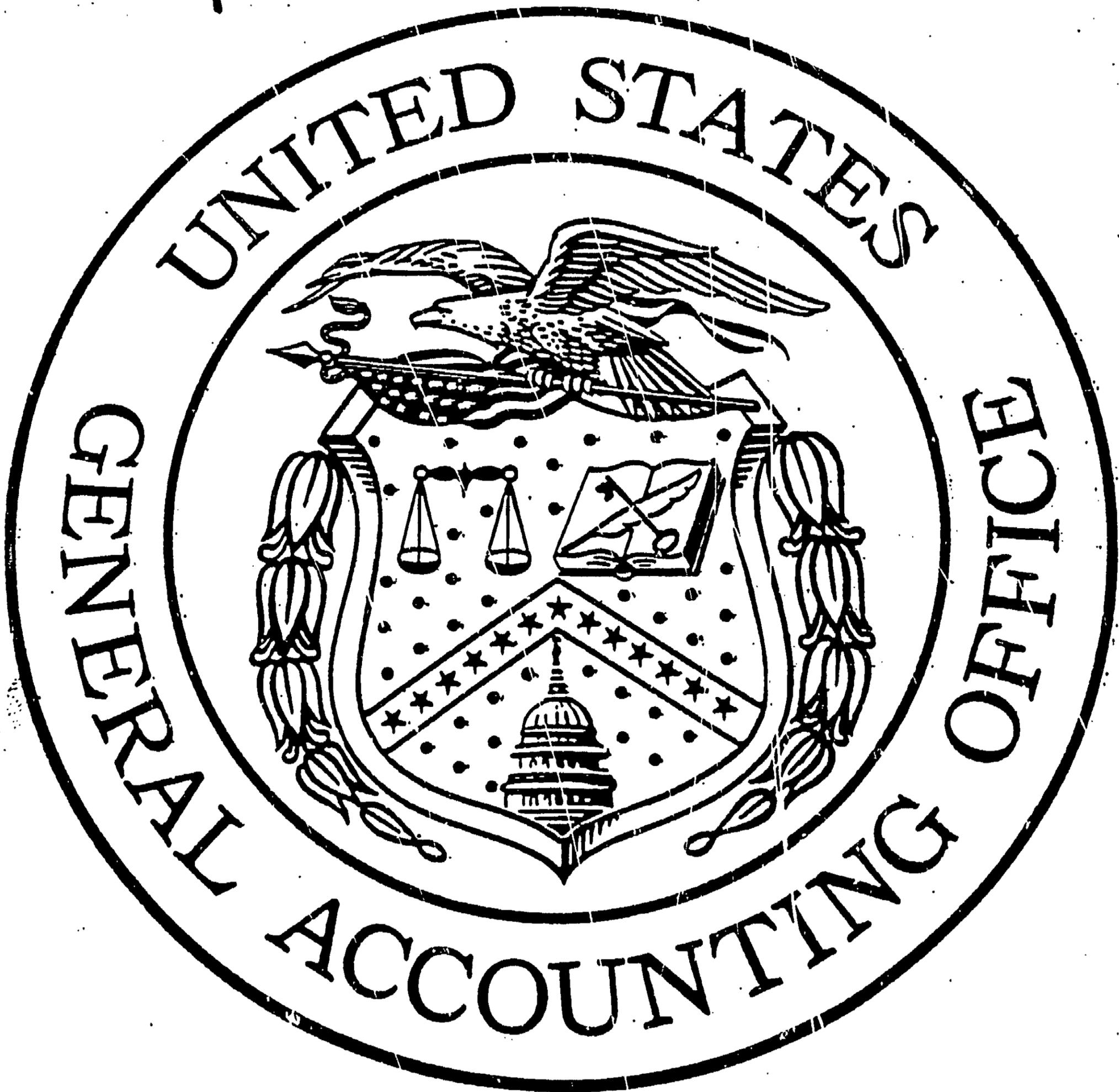


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DECISION



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

FILE: B-204450

DATE: February 1, 1982

MATTER OF: Masee Builders, Inc.

DIGEST:

1. Fact that bidder awarded contract used cumulative method of pricing additive bid items, while others used the additive method stipulated in the IFB, does not constitute a compelling reason to cancel the solicitation and readvertise.
2. Where a bidder's prices for one base and three additive items increased cumulatively, contrary to instruction for additive pricing in the IFB, agency's correction of the bid mistake and award to that bidder were proper, since the mistake and the bid prices actually intended are ascertainable from the submitted bid when compared to other bid prices and the Government estimate.

Masee Builders, Inc. (Masee), protests an award to the Richard Walker Construction Co., Inc. (Walker), under invitation for bids (IFB) No. N68248-80-B-3019 issued by the Naval Facilities Engineering Command, Southern Division (Navy), for the construction of a housing, food preparation, dining, and entertainment complex at the Naval Submarine Support Base, Kings Bay, Georgia. For the reasons discussed below, we deny the protest.

The IFB provided that bids were to be submitted on four items. The first item was "the entire work complete in accordance with the drawings and specifications," but not including work specified under the other three items, which were "the addition of" certain further structures and improvements. Evaluation of bids was to be made, in accordance with clause 21 of the Instructions to Bidders, "Additive or Deductive Items," as follows:

"The low bidder for purposes of award shall be the conforming responsible bidder offering the low aggregate amount for the first or base bid item, plus or minus (in the order of priority listed in the schedule) those additive or deductive bid items providing the most features of the work within the funds determined by the Government to be available before bids are opened. * * *"

The parties involved in this protest submitted the following bid prices:

	<u>Bid Item 1</u>	<u>Bid Item 2</u>	<u>Bid Item 3</u>	<u>Bid Item 4</u>
Walker	\$4,362,760	\$4,444,388	\$4,629,369	\$4,725,603
Massee	4,447,000	64,000	190,000	103,000

After bid opening, Walker informed the Navy that its bid prices for items 2, 3, and 4 were cumulative, rather than additive. In additive form, therefore, Walker's respective prices for the four bid items were as follows:

<u>Bid Item 1</u>	<u>Bid Item 2</u>	<u>Bid Item 3</u>	<u>Bid Item 4</u>
\$4,362,760	\$81,628	\$184,981	\$96,234

The Navy determined that Walker's error was obvious on its face and that the cumulative and additive tabulations were mathematically identical. Consequently, the Navy determined that Walker had submitted the lowest aggregate bid for the project and that Massee was the second low bidder. The Navy awarded the contract to Walker in reliance upon our decision, in Bentley, Inc., B-200561, March 2, 1981, 81-1 CPD 156.

Massee protests the award on the alternative grounds that the IFB is defective and must be readvertised, and that Walker's bid is nonconforming and, therefore, nonresponsive. Massee further states that a determination by the agency that Walker had made an obvious error is tantamount to permitting

Walker to adjust its prices after bid opening to the disadvantage of other bidders and in violation of the competitive bidding system.

As to Masseur's first contention, the Navy's reliance on the above decision is correct. Invitations for bids may be canceled by the agency after bid opening only for "compelling" reasons. Defense Acquisition Regulation (DAR) § 2-404.1(a) (1976 ed.). In Bentley, Inc., supra, we held that the mere fact that bidders used different methods of bidding, i.e., both cumulative and additive, did not constitute a "compelling" reason for cancellation where intended prices for each item readily could be determined from the face of the bids. We could conceive of no reasonable construction of the submitted bids other than that some firms were bidding cumulatively and others additively. We conclude that this is the case here; the agency could not have reasonably concluded that Walker intended to submit an aggregate bid of \$18,209,120 in response to an IFB with a stated estimated cost of between \$2.5 million and \$5 million.

Masseur contends that, since Walker's method of bidding violated clause 21 of the IFB, the bid cannot be corrected and should be rejected as nonresponsive. This Office has rejected these contentions in similar circumstances involving clause 21 and a low aggregate bid on a cumulative basis. In this regard, we have sustained awards to bidders submitting cumulative bids clearly susceptible to specific computation, despite the fact that clause 21 does not contemplate cumulative bidding. See Bentley, Inc., supra; Weathertrol Inc., B-188929, August 11, 1977, 77-2 CPD 113. In the latter case, the IFB instructed bidders to submit a bid price for item 1 (the base bid) and a separate price for item 2 (an additive). A bidder contended that its bid price of \$32,531 for item 2 was cumulative rather than additive, resulting in an item 2 price of \$5,104. Other bidders submitted prices for item 2 ranging from \$2,972 to \$5,515. In our decision, we held that a mistake in bid price was evident on the face of the bid when it was compared to other bids and to the Government estimate. We further held that the bid price actually intended for bid item 2 was ascertainable substantially from the bid itself, and that correction of the bid was proper under DAR § 2-406.3(a)(3) (1976 ed.). See also B-170450, November 13, 1970.

We deny the protest.

Milton J. Rosen

Acting Comptroller General
of the United States