

DECISION

118621 PL-1 Jannicelli
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-205715**DATE:** June 7, 1982**MATTER OF:** Miller Disposal Services, Inc.**DIGEST:**

1. Bid that does not limit, reduce, or modify bidder's obligation to perform services required in invitation for bids is responsive. Discrepancies between unit prices and extended prices are ambiguities pertaining solely to price and are properly for correction in accord with mistake-in-bid regulations.
2. Where low bid contained discrepancies between unit prices and extended prices, bid was low both as submitted and as corrected, and bidder's worksheets showed intended bid, agency properly allowed bidder to correct bid to reflect intended bid prices.
3. Protest that agency awarded contract pending resolution of protests before agency and GAO is denied. While contract was signed by contracting officer before agency denied protest, contract was not mailed until 2 days after denial of protest by agency, and protest to GAO was not filed until after contract had been awarded. In any event, a deficiency of this type is only a procedural deficiency which does not affect the validity of the award.

Miller Disposal Services, Inc. (Miller), protests against award of a contract to Sherman Disposal Company (Sherman) by the Department of the Air Force pursuant to invitation for bids No. F19650-81-B-0076. The contract calls for services related to refuse collection and disposal at Hanscom Air Force Base and, in addition to the basic contract period, contains options for 3 additional years of services.

Miller charges that Sherman's bid contained a number of discrepancies between unit prices and extended prices which allegedly made the bid nonresponsive and which the Air Force improperly allowed Sherman to correct. Miller also contends that the Air Force improperly awarded the contract to Sherman before Miller's protests, filed with the Air Force and subsequently with our Office, were resolved.

The protest is denied.

The invitation for bids required bids for 15 separate line items on both a unit basis and an extended amount basis for the basic contract year and for each of the option years and only Miller and Sherman submitted bids. The contracting officer discovered several obvious discrepancies between unit prices and extended prices in Sherman's bid which reads as follows:

"ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	BASIC YEAR-81 OCT 01 THROUGH 82 SEP 30				
0001	Army and Air Force Exchange Service Buildings Collection Points * * *	12	MO	\$239.20	\$ 12,438.40
0002	Commissary Branch, collection points * * *	12	MO	\$361.40	\$ 18,792.80
0003	Army Reserve Building, collection point * * *	12	MO	\$ 72.80	\$ 3,785.60
0004	Elementary School, collection points * * *	12	MO	\$101.40	\$ 5,272.80
0005	Base Trailer Park * * *	12	MO	\$260.00	\$ 13,520.00
0006	Family Housing, four hundred three (403) units and one (1) Playground Area * * *	12	MO	\$523.90	\$ 27,242.80

0007	Family Housing, ninety-two (92) * * *	12	MO	\$163.80	\$ 8,517.60
0008	Family Housing, two hundred (200) Units * * *	12	MO	\$455.00	\$ 23,660.00
	* * *				
0010	Picnic Area * * *	28	WK	\$ 52.00	\$ 2,704.00
0011	Remaining Hanscom AFB facilities not else- where listed * * *	12	MO	\$100.00	\$ 5,220.00
	* * *				
TOTAL FOR LINE ITEMS 0001 THROUGH 0015					\$129,024.00"

Sherman's bid contained identical amounts for each of the option years.

On September 25, the contracting officer wrote to Sherman and requested verification of all bid prices. In response, Sherman alleged that it had made clerical mistakes in typing its bid and, therefore, requested that it be allowed to correct its bid. With regard to line items 0001 through 0008 and line item 0011, Sherman alleged that the amounts stated under the column entitled "UNIT PRICE" were prices per week of performance instead of per month as requested in the bid schedule. The extended totals for each of these line items in the column entitled "AMOUNT" and all other prices in the bid were verified as correct. By letter dated October 9, Miller protested to the contracting officer. On October 26, Sherman wrote to the contracting officer and stated that it had made an additional error concerning the bid price for line item 0010; Sherman had extended the unit price of \$52/week by multiplying it times 52 weeks instead of the 28-week period of performance

required. Thus, the figure of \$2,704 in the "AMOUNT" column should have been \$1,456--a reduction of \$1,248. Sherman submitted its worksheets to the Air Force in support of its explanations and request for correction.

The Air Force determined that Sherman had made obvious mistakes in its bid and that Sherman should be allowed to correct the bid in accord with Defense Acquisition Regulation (DAR) § 2-406.3(a)(2) (1976 ed.). By letter of November 25, the contracting officer notified Miller that its protest was denied and that award was being made to Sherman immediately because the services were urgently required. Miller filed its protest in our Office on December 4, 1981.

We find no merit to Miller's allegation that these bidding errors made Sherman's bid nonresponsive. Since nothing on the face of Sherman's bid limited, reduced, or modified Sherman's obligation to perform the services as required under the invitation for bids, the bid was responsive. See Compac-Cutting Machine Corp., B-195865, January 21, 1980, 80-1 CPD 60. In particular, Miller points out that the requirement for line item 0010 was for 28 weeks of service but that Sherman bid on 52 weeks of service. The protester argues that Sherman did not bid in strict conformance with the stated requirement and, therefore, should be rejected as nonresponsive in accord with John Mondrick Plumbing & Heating, Inc., B-201675.3, July 31, 1981, 81-2 CPD 73, and International Salt Company, B-200128, January 7, 1981, 81-1 CPD 142. We disagree.

In the cases cited by the protester, we held that bidders which had bid on performance periods shorter than the performance periods required by the solicitations were nonresponsive. In contrast, however, Sherman based its bid price for this line item on a performance period which was longer than that required in the invitation. Moreover, any ambiguity created by the discrepancy between the unit price and the extended price for this or any other line item is not an ambiguity which makes the bid nonresponsive. Rather, such ambiguities pertain solely to price and are properly for correction in accord with mistake-in-bid regulations. See Air Technology International, Inc., B-205771, April 15, 1982, 82-1 CPD 347. Therefore, this issue of the protest is denied.

Concerning the allegation that the bid errors should not have been corrected, we find that the Air Force acted properly. DAR § 2-406 sets forth the rules to be followed in allowing correction of alleged mistakes in bids. Sherman's bid, both as uncorrected and as corrected, was lower than Miller's bid. Sherman's uncorrected total price for each year was \$129,024, while Miller's total price for the basic year was \$140,957 and increased for each option year. After correction, Sherman's total price for each year was only \$127,776. Therefore, the alleged bid errors were for correction in accord with DAR § 2-406.3(a)(2) as long as Sherman provided clear and convincing evidence both as to the existence of the mistake and as to the bid actually intended.

It is obvious from the face of Sherman's bid as originally submitted that either the unit prices or the extended prices for line items 0001 through 0008 and line item 0011 are mistakes. Sherman's worksheets clearly show that the bid prices in the "UNIT PRICE" column are weekly prices rather than monthly prices as requested in the invitation. Furthermore, the worksheets verify that the extended prices and total bid price of \$129,024 accurately reflect Sherman's intent. Moreover, by dividing the extended line item prices for these particular line items by 52 (the number of weeks in a year), you arrive at the weekly figures Sherman stated in the "UNIT PRICE" column. Therefore, we find that Sherman's explanation of a clerical error is plausible. More importantly, we conclude that the Air Force properly determined that the errors could be corrected because clear and convincing proof of the intended bid had been presented. Compare Western Equipment of Oregon, B-204125, December 8, 1981, 81-2 CPD 447; see also Value Precision, Inc., B-191563, August 7, 1978, 78-2 CPD 97. We note that the invitation for bids stated:

"* * * In case of discrepancy between a unit price and extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake."

However, even when the solicitation contains such a provision, we have held that the extended bid prices

should govern if unit prices are clearly erroneous. See Value Precision, Inc., B-191563, August 7, 1978, 78-2 CPD 97.

Concerning the mistake alleged in the extended price for line item 0010, we find that the Air Force acted reasonably when it accepted Sherman's admission of mistake and consequent price reduction. Again, Sherman's worksheets present clear and convincing proof that a mistake in pricing had been made. However, here, the worksheets show that the total price was erroneous and that the Government was being overcharged by \$1,248. Sherman voluntarily offered to reduce its price accordingly. We find that Sherman's bid was properly corrected downward because its bid, either as submitted or as corrected, was low and, as noted above, was responsive. It is legally permissible to reduce a low responsive bid after opening. See Park Construction Company, B-190191, July 18, 1978, 78-2 CPD 42. Even where, unlike here, a discrepancy exists and an ambiguity in price is created, if the bid is the low acceptable bid under either price and the bidder agrees to perform at the lower price, a contract may properly be awarded at that lower price, since the other bidders have not been prejudiced and the integrity of the competitive bidding system has not been compromised. See Marine Power & Equipment Co., Inc., B-200692, February 19, 1981, 81-1 CPD 113.

Accordingly, the protest is denied as to the allegation that the Air Force should not have allowed Sherman's requests for bid correction.

Concerning the charge that award was made to Sherman prior to resolution of Miller's protests before the Air Force and our Office, the protest is denied. Although the record shows that the award provision of the contract was signed by the contracting officer on November 25, the contract was not mailed until November 27 (2 days after the Air Force had denied Miller's protest) and Miller did not protest to our Office until December 4. In any event, a deficiency of this type is only a procedural deficiency which does not affect the validity of award. See Mosler Systems Division, American Standard Company, B-204316, March 23, 1982, 82-1 CPD 273.

For the reasons stated, we deny the protest.

for Milton J. Rozola
Comptroller General
of the United States