

**DECISION**

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

**FILE:** B-219445

**DATE:** September 13, 1985

**MATTER OF:** Camden Ship Repair Co., Inc.

**DIGEST:**

Protest that agency improperly allowed correction of a bid to displace a lower bid is denied where the agency reasonably concluded that the bid, which included a price for an item that had been deleted from the solicitation by an amendment that the bidder had acknowledged, was mistaken and that the intended bid was apparent from the bid as submitted.

Camden Ship Repair Co., Inc. protests the proposed award of a contract to Dorchester Industries, Inc. under invitation for bids (IFB) No. DACW61-85-B-0055, issued by the U.S. Army Corps of Engineers, Philadelphia District. Camden contends that it was displaced as the low bidder when the agency improperly allowed Dorchester to correct its bid. We deny the protest.

The agency issued the IFB seeking to enter into a firm, fixed-price contract for a minor overhaul of the survey boat Shuman. The solicitation required each bidder to enter prices for 14 categories of work and to total these amounts to arrive at a bid price. Award was to be made to a single bidder. The agency issued four amendments to the solicitation, the last of which deleted item No. H-202 in its entirety. This item would have required removal and replacement of the vessel's rubber fender. Dorchester acknowledged amendment No. 4 by signing the amendment and attaching it to its bid. On the bidding schedule, however, Dorchester entered a price of \$6,690 for item No. H-202 and included this amount in its total bid price of \$43,555. Camden also acknowledged amendment No. 4, but crossed out item No. H-202 on its bidding schedule and entered "Deleted" in the space reserved for a price for this item. Camden's total bid price was \$39,398.

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After bid opening, the contracting officer contacted Dorchester and requested the firm to verify its bid. Dorchester responded with a letter saying that it had included \$6,690 for item No. H-202 by mistake and that its intended bid was \$36,865. The contracting officer then determined that Dorchester's bid contained an apparent clerical mistake that could be corrected, citing the authority contained in section 14.406 of the Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.406 (1984). The contracting officer proposes awarding a contract to Dorchester at \$36,865, which is \$2,533 lower than Camden's bid. The agency argues that Dorchester should be permitted to correct its bid under the FAR, § 14.406-3, since both the existence of a mistake and the bid actually intended are ascertainable substantially from the bid itself.

Camden protests the correction of Dorchester's bid, arguing first that it is not clear from that firm's bid that the entry of an amount for the fender work actually was a mistake. Camden contends next that even if the bid in fact was mistaken, the regulations do not permit the bid to be corrected so as to displace Camden's bid since the price Dorchester intended cannot be determined from the IFB and the bid actually submitted. Camden argues that it does not necessarily follow that Dorchester's intended price for the amended requirement can be determined simply by subtracting from its actual bid price the amount indicated for the fender work. The reason for this, says Camden, is that while deleting the fender work requirement would eliminate the direct costs of performing this work, there is no assurance that Dorchester would not have reallocated to other items the overhead and profit components of its fender work bid. Finally, Camden says that by including a price for an item that expressly had been deleted, Dorchester's bid was nonresponsive and may not be corrected through mistake-in-bid procedures.

The regulations provide that after the opening of bids, the contracting officer is to examine all bids for mistakes and to request verification of those bids that contain or are believed to contain mistakes. FAR, § 14.406-1. If a bid contains an "apparent clerical mistake," the contracting officer may correct the bid after obtaining the bidder's verification of the intended bid. FAR, § 14.406-2. In order for a mistake to be treated as

an "apparent clerical mistake," however, the contracting officer must be able to ascertain the intended bid without the benefit of advice from the bidder. See DeRalco, Inc., B-205120, May 6, 1982, 82-1 CPD ¶ 430. With respect to other mistakes disclosed before award, FAR, § 14.406-3(a) provides that a bidder may be allowed to correct its bid to displace a lower bid if (1) clear and convincing evidence establishes both the existence of the mistake and the bid actually intended, and (2) the mistake and the intended bid are ascertainable substantially from the invitation and the bid itself. Thus, regardless of which FAR section applies to the correction of Dorchester's bid, the issue is whether the existence of a mistake and the intended bid were ascertainable from the bid as submitted.

The authority to determine when correction of a mistaken bid is appropriate is vested in the procuring agencies. This Office will not question an agency's determination in this regard unless the determination is without a reasonable basis. Crimson Enterprises, Inc., B-213239, May 8, 1984, 84-1 CPD ¶ 513.

In this case, we find no reason to question the agency's determination to permit correction of Dorchester's bid. The bid obviously was mistaken since the bidder acknowledged an amendment deleting the fender work yet included an amount for this work. Since the bid as submitted clearly indicated the amount of the total bid that had been allocated to the fender work, we think the agency reasonably concluded that Dorchester's bid without the fender work would have been the amount actually bid for the entire project, \$43,555, less the \$6,690 shown for item No. H-202, for a total of \$36,865. Although it is possible, as Camden contends, that Dorchester could have sought to reallocate to other items the overhead and profit that it had included in its fender work bid, Camden has provided no evidence to indicate that this was other than a mere possibility or that such a reallocation would have caused Dorchester's bid to remain higher than Camden's. In our view, the agency was not required to rule out every conceivable bidding strategy in order to conclude that the bid as submitted contained clear and convincing evidence of the intended bid.

We find no merit to the protester's contention that by ostensibly submitting a price for an item that had been deleted, Dorchester's bid was nonresponsive. The bid did not take exception to any requirement of the solicitation, and even if the bid could be read as an offer to perform the fender work, the bid, which would be an offer to do more than the solicitation required, not less, would be responsive. Charles V. Clark Co., Inc., 59 Comp. Gen. 296 (1980), 80-1 CPD ¶ 194.

The protest is denied.

*Harry R. Van Cleve*

Harry R. Van Cleve  
General Counsel