



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Action Service Corporation

File: B-254861

Date: January 24, 1994

Jose M. Garcia Ramis for the protester.
William E. Thomas, Jr., Esq., Department of Veterans Affairs, for the agency.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Correction of a clerical error in one unit price in the apparent low bid is proper where the error in, and the intended meaning of, a line item monthly unit price stated as "\$5,0005," with a yearly extended price of \$60,060, was obvious and clear from the face of the bid; the erroneous unit price was inconsistent with the bidder's bidding pattern and was outside the price range of the other bidders; and the correct unit price of \$5,005 (\$60,060 divided by 12) was consistent with the bid's pricing pattern and the other bids' unit prices for the line item, and was the only reasonable interpretation of the bid.

DECISION

Action Service Corporation protests the proposed award of a contract to Xperts, Inc. under invitation for bids (IFB) No. 672-058-93, issued by the Veterans Affairs (VA) Medical Center, San Juan, Puerto Rico, for custodial services. Action alleges that the bids were opened late; that the agency failed to properly display the IFB's amendments; that the agency improperly failed to permit Action to inspect bids at bid opening; that the VA is improperly permitting Xperts to correct a mistake in bid; and that Xperts' bid has allegedly expired.

We deny the protest.

On July 21, 1993, VA issued the IFB for custodial services at various VA facilities for a base year, with four 1-year options. The IFB was amended by two amendments, one of which was issued on August 13 and the other on August 16. These amendments were posted in a glass enclosed bulletin board located in a hallway adjacent to the "Purchasing and

Contracting" office. The bid opening under the IFB was scheduled to be held on August 27 at 10:00 a.m.

On the scheduled opening date, the contracting officer started the process by obtaining the time from the bid recorder whose watch reflected that it was 10:00 a.m. Based upon the recorder's advice, the contracting officer announced that bid opening was commencing. The bids were then opened after a brief introduction by the contracting officer to the parties present. Five bids were submitted by the bid opening time. The low bid was rejected as nonresponsive because it did not contain an executed Certificate of Procurement Integrity.

Xperts submitted the apparent next low bid. At the bid opening, VA informed the representative of Xperts and the others present that Xperts' bid apparently contained a clerical error. Specifically, the bid form required bidders to insert a unit price--reflecting a per month price--and an extended total price for the 12-month period for five separate line items for each year of the contract, as well as a total price for each period. For one line item in the first option period, Xperts' bid reflected a per month unit price of "\$5,0005.00" and an extended total price of \$60,060. VA concluded that Xperts had apparently mistakenly added an additional zero to its unit price, since when the extended total was divided by 12 the unit price is calculated as \$5,005. At bid opening, VA requested that Xperts confirm that this interpretation was correct. Xperts later confirmed the interpretation.

At bid opening, Action, which submitted the third low bid, requested the contracting officer to physically review the bids. This request was denied. On September 10, Action protested the proposed award to Xperts for the reasons enumerated above. All of the protest bases lack merit.

For example, Action's argument that VA improperly opened the bids late without announcing a change in the bid opening time provides no basis to disturb the procurement since Action does not suggest, and the record does not indicate, that any bids were submitted after the time that Action believes should have been the bid opening time. In any case, the bid opening officer is authorized to decide when the time set for opening has arrived by informing those present of that decision; the officer's declaration of the bid opening time is determinative unless it is shown to be unreasonable--which Action does not show here. See Wyoming Sawmills, Inc., B-248331, July 22, 1992, 92-2 CPD ¶ 45.

Action next argues that the VA did not properly display the amendments in the bid room as required by Federal Acquisition Regulation (FAR) § 14.208(a). This too is not a

cognizable basis for protest since there is no evidence that any bidder failed to acknowledge any amendment.

With regard to Action's complaint that it was not permitted to physically examine bids at bid opening, we note that VA's representatives answered all questions from Action and the other bidders concerning the bids received and that Action has had the subsequent opportunity to examine Xperts' bid. While the record does not support the contracting officer's statement that permitting Action to examine Xperts' bid at bid opening would have unduly interfered with the conduct of government business, see generally 48 Comp. Gen. 413 (1968), Action was not prejudiced in this case since it did subsequently have the opportunity to examine the bid.

Action next contends that, in accepting a correction in Xperts' bid, VA failed to comply with the mistake in bid correction procedures set forth in FAR § 14.406. Action argues that Xperts should not be allowed to make a correction in its unit price, which Action reads as \$50,005, because where there is a mistake between unit and extended totals the unit price is presumed to be correct, which would make Xperts' bid higher than Action's bid.

Notwithstanding solicitation provisions that give precedence to unit prices, an obviously erroneous unit price can be corrected to correspond to an extended total price where the corrected unit price is the only reasonable interpretation of the bid. See Action Serv. Corp., B-246413; B-246413.2, Mar. 9, 1992, 92-1 CPD ¶ 267. The correction of an obvious mistake is authorized, despite resultant displacement of lower bidders, if the existence of the mistake and the intended price are apparent from the face of the bid. FAR § 14.406-3.

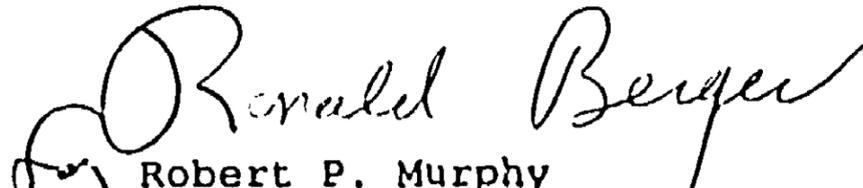
Here, it is obvious that Xperts did not bid a monthly price of \$50,005 for the option line item in question because of several factors. First, in every case, except the line item in question, Xperts bid a unit price that when multiplied by 12 equaled the extended total--the figure \$50,005 is inconsistent with this pattern. Second, the extended total for this line item of \$60,060, when added to the other extended totals equaled the price Xperts bid as the total price for the option period. Finally, a \$50,005 figure is inconsistent with Xperts' bidding pattern for the monthly pricing for this line item among the base and option years--\$4,766.67, "\$5,0005.00," \$5,255.25, \$5,518.01, \$5,793.91--and is well outside the price range of the other bidders' prices for this line item. On the other hand, the intended unit price of \$5,005 is consistent with Xperts' and the other bidders' prices, and can easily be determined by dividing the extended total price of \$60,060 for the line item by 12. Thus, Xperts's bid is susceptible to only one

reasonable interpretation and VA properly allowed Xperts to correct its bid to reflect its intended \$5,005 unit price. See Action Serv. Corp., supra.

Finally, Action questions whether VA may make award to Xperts because Xperts' bid had an acceptance period of 60 calendar days, which meant that it expired on October 25, 1993. VA has responded by furnishing a copy of Xperts' timely extension of its bid sent by facsimile to VA on October 22. While Action asserts that such a bid extension is not effective because facsimile bid modifications were not authorized by the IFB, we have recognized that a bidder can effectively extend its bid acceptance period by either providing an express extension or by conduct from which the agency can infer the bidder's intent to extend. J.A.K. Constr. Co., Inc., B-230056, Apr. 28, 1988, 88-1 CPD ¶ 413; American Photograph Indus., Inc., B-206857, Sept. 29, 1982, 82-2 CPD ¶ 295. Thus, we think Xperts' bid acceptance period was effectively extended by its facsimile submission.

Based on the foregoing, we find no bar to VA's proposed award to Xperts.

The protest is denied.


Robert P. Murphy
Acting General Counsel