

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



B-176649

JAN 24 1973

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Attention: Richard Bryson, Esq.

Gentlemen:

Reference is made to your letter of August 11, 1972, and prior correspondence, requesting that the purchaser road construction credit limit in Forest Service Timber Sale contract No. 02452-1 with Rosboro Lumber Company be increased from \$36,230 to \$50,365.

The following six bids were received on this timber sale by the December 30, 1971, bid opening date:

Rosboro Lumber Company	\$932,550
Timber Access Industries	931,670
American Can Company	685,270
Mt. June Lumber Company	685,270
Seneca Sawmill Company	685,270
Young & Morgan Incorporation	685,270

The advertised appraised value of the timber was determined by the contracting activity to be \$685,270, inclusive of the specified purchaser road construction credit. That credit amount had been computed to be \$36,230. A contract was awarded to Rosboro on its high bid. Thereafter, Rosboro discovered that the contracting activity had, through a clerical error, incorrectly computed the road construction credit. This error occurred in the extension of the cost for unclassified excavation. The unit price of \$0.67 per cubic yard for a total of 23,441 cubic yards was incorrectly totalled as \$1,570 instead of \$15,705. The attorneys for Rosboro advised that when the bid on this contract was submitted the timber area was under several feet of snow and could not be inspected. Consequently, Rosboro relied upon the Forest Service estimate. Rosboro's request to the Forest Service for an increase in the credit to \$50,365 was denied on the basis that the contract could not be administratively modified to the disadvantage of the Government. A study by the Forest Service of the Timber Sale Appraisal Road Cost Estimate also disclosed other clerical errors made therein. Had the road construction credit been correctly computed it would have been \$50,560 instead of \$36,230.

B-176649

The Forest Service admits that clerical errors to the sum of \$14,330 occurred in the computation of the road construction credit. Nonetheless, it is felt that correction of the Rosboro contract to show the correct figure of \$50,560 should not be allowed. While it has not been determined if the errors were known to the bidders at the time of bid submission, it is advised that the working papers developing the estimated road costs were available for inspection prior to the sale, and all prospective purchasers were urged to examine them prior to bidding. Rosboro did not examine these working papers prior to bidding.

Our Office has been advised by the Forest Service that on major timber sales at the Willamette National Forest, as in this case, it is the common practice for bidders to examine all contract and appraisal forms. At least one bidder did so on this sale. We have been further advised that it is a common practice for bidders to conduct an inspection of the timber sale area before submitting bids. This common industry practice would indicate to us that it is customary for bidders to treat the road credit simply as an estimate and, consequently, to treat it as an indication of costs upon which sole reliance may not be placed. Indeed, we have been advised informally by the Forest Service that a Rosboro representative conducted a physical examination of the sale area prior to the sale.

From these facts, we conclude that recovery by Rosboro of the amount noted on the basis of the doctrines of mutual mistake or accidental misrepresentation by the Government would be inappropriate. Accordingly, the claim is disallowed.

Very truly yours,

PAUL G. DEMBLING

For the Comptroller General  
of the United States