



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-177159

JAN 23 1973

Dear Mr. Suspeon:

Reference is made to a letter dated September 26, 1972, with enclosures, from the General Counsel, General Services Administration (GSA), requesting a decision whether contract GS-01S-4789 between the Federal Supply Service (FSS) and the Bureau of National Affairs, Incorporated (BNA), may be amended to increase the contract price for a one-year subscription to U.S. Income Tax Management, Federal Stock No. 37-2111, from \$242 to \$292, due to a mistake in bid which was alleged after the award of the contract.

The contract was awarded to BNA as a sole-source procurement for 128 items of law books and legal reference services covering FSS needs for fiscal year 1973. In responding to the solicitation BNA quoted prices on the listed items and submitted a cover letter dated December 22, 1971, stating that its current prices were the same as the previous year except where additional volumes were added. A contract was awarded to BNA on May 15, 1972, for the 128 items offered at the prices listed in the proposal.

By letter dated June 21, 1972, BNA notified FSS that a typographical error had been made in quoting the price at \$242 for a one-year subscription to U.S. Income Tax Management. BNA noted that the proposal's cover letter stated that the current prices being offered were the same as the previous years' prices, at which time a one-year subscription to U.S. Income Tax Management cost \$292. Estimated annual sales for this item are reported to be \$30,000.

It is reported that the solicitation to which BNA responded included over 2300 items of books and publications, including the 128 items awarded to BNA, and that while the BNA offer was reviewed for reasonableness of price, proper completion of necessary forms, additional items and deletions, the clerical error in BNA's listed price for the item in question was not detected by FSS officials until BNA brought it to their attention after the award. It is also reported that the FSS officials were aware of the BNA cover letter relating the quoted prices to the prior years' prices. In addition, we were advised that BNA's prices for the other items conform with

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B-177159

its commercial price list, as does the price which they now request. Therefore, your General Counsel urges that the contract be reformed as requested on the basis that the contracting officer should have detected the mistake before the award was made.

As a general rule, a government contractor who discovers after an award that he made a mistake in his price must bear the consequences unless the mistake was mutual or the contracting officer should have detected the mistake prior to the award. 45 Comp. Gen. 700, 706 (1966). In the present case the contracting officer reports that the BNA offer was reviewed for reasonableness of price.

We are advised in this connection that the contracting officer compared the price quoted by BNA for each item against the prior years' price for the item in order to determine its reasonableness. We are further advised that while the contracting officer states he was primarily interested in detecting prices on items which were higher than those paid for the items in the prior year, he feels that he also should have noted the fact that the price on the subject item was lower than last year's price and that this was contrary to the statement made by BNA in the cover letter with its offer. We agree. It is our opinion that the contracting officer should have been aware of the possibility of a mistake on the item in question and requested verification of the price from the offeror. FPR 1-2.406-1. Since this requirement was not met, the contract price for the item should be corrected from \$242 to \$292, as requested.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States

The Honorable Arthur F. Sampson
Acting Administrator, General
Services Administration