

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

FILE: B-183715

DATE: June 26, 1975

50833  
97144

MATTER OF: C. Carl Fitch

**DIGEST:**

Where mistake in bid on item in surplus sales contract was alleged after award, and bid for said item was approximately  $3\frac{1}{2}$  times greater than current market appraisal and almost eight times greater than the next high bid, there is clear evidence of mistake in bid and contracting officer should have been on notice of mistake. GAO will not object to administrative recommendation to delete subject item from contract.

By letter dated April 21, 1975, with enclosures, the Acting Assistant Counsel, Defense Supply Agency (DSA), requested a decision as to the action to be taken concerning an error alleged by Mr. C. Carl Fitch to have been made in his bid upon which sales contract 27-5178-723 is based.

The Defense Property Disposal Service (DPDS), by invitation for bids 27-5178, solicited bids for some 298 items of Department of Defense surplus personal property. C. Carl Fitch submitted a timely bid on a number of the items, including item 287, which was described as follows:


"DENTAL EQUIPMENT: Including operating units, lights, dental chair, & cuspidor. Inside - 916 068 101 -  
Unpacked - Used - Poor Condition - Repairs Required  
Total Cost \$6249 1408 Pound"

Award of item 287 to Mr. Fitch was made on February 4, 1975. By telephone conversation of February 18, 1975, and by letter of February 26, 1975, Mr. Fitch advised the contracting officer of a mistake that had been allegedly committed with regard to item 287. It was stated that the bid was intended for item 281, which consisted of compressed gas cylinders. Mr. Fitch was unable to explain how the error occurred but he stated that he intended to bid only for the compressed gas cylinders. The subject concern is an industrial and welding supply company.

Mr. Fitch did not submit a unit price for item 287, although bidders were instructed to submit unit and total bids in bidding for items offered on the basis of more than one unit. On the four other items other than item 287, each of which consisted of more than one unit, Mr. Fitch entered a unit price and a total price. The item for which the erroneous bid was intended, item 281, consisted of only one unit. This tends to lend credence to Mr. Fitch's claim that his bid was intended for item 281. His worksheets do show that the amount bid for item 287 is the total for item 281. Furthermore, Mr. Fitch's bid for item 287 is almost eight times greater than the second high bid and  $3\frac{1}{2}$  times greater than the current market appraisal for this item. On the basis of the foregoing, the contracting agency is of the opinion that there is convincing evidence of the mistake, and that the contracting officer should be charged with notice of the error prior to award. Charles Bluestone Company, Inc., B-181512, July 5, 1974. Accordingly, since the contracting officer did not verify the bid prior to award, deletion of item 287 from the contract is recommended.

Our Office has held that if a bidder commits a unilateral mistake, he is bound by the contract as awarded unless the contracting officer knew, or should have known, of the mistake at the time of award. If the contracting officer was actually or constructively on notice of the mistake, relief may be granted. 49 Comp. Gen. 199 (1969); B-181512, supra. Ordinarily, a wide range of bid prices in sales of surplus property is not sufficient to put the contracting officer on constructive notice of the possibility of error because of the many possible uses to which the property may be put. Wender Presses, Inc. v. United States, 343 F.2d 961 (Ct. Cl. 1965). However, in view of the circumstances, particularly the fact that the bid was approximately  $3\frac{1}{2}$  times greater than the current market appraisal, we are of the opinion that the contracting officer should have been on notice of a probable mistake in bid.

Accordingly, we agree with the administrative recommendation that item 287 be deleted from the contract.

  
Deputy Comptroller General  
of the United States