

**DECISION**



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

50992

97291

FILE: B-183911

DATE: August 8, 1975

MATTER OF: Hygrade Food Products Corporation

**DIGEST:**

Where high bidder's price for cooked and uncooked bones offered for sale by Defense Supply Agency exceeded next high bid by 2.32 times, was 1.84 times the current market appraisal, and was inconsistent with the overall bidding pattern of other bidders, sales contracting officer was on constructive notice of error in bid alleged after award. Since no verification of high bid was requested or made, there is no objection to reformation of contract to extent of next high bid for period prior to termination of the contract by bidder.

Invitation for bids (IFB) on Term Sale 41-5244 was issued by the Defense Property Disposal Service (DPDS) for the sale of meat trimmings, bones and fats. Hygrade Food Products Corporation (Hygrade) submitted a bid for items 17, 18, and 19 as follows:


	Quantity	Unit	Unit Price	Total Price
17. BONES, FATS AND MEAT TRIMMING: Including cracklings, cooked and uncooked.	800,000	POUND	.0261	\$20,880.
18. BONES: Cooked and uncooked and meat trimmings, including cracklings.	360,000	POUND	.092	\$33,120.
19. FATS: Uncooked and unrendered.	300,000	POUND	.0234	\$ 7,020.

Bids were opened on December 17, 1974, and Hygrade, successful bidder on Item 18, was awarded Sale Contract 41-5244-011 on that Item. Shortly thereafter, Hygrade requested correction of an alleged mistake in bid for Item 18, stating that its intent was to bid \$.0092 per pound. Hygrade performed the contract as to Item 18 for a 30-day period after which the contract was terminated pursuant to a notice of termination served by Hygrade under Special Sealed Bid Term Condition E, entitled "Termination."

According to the sales contracting officer, the current market appraisal for Item 18, established prior to bid opening, was \$.05 per pound and the next high bid for the item was \$.0396 per pound. The other two bids received for Item 18 were \$.01 and \$.0121 per pound. Therefore, the bid of Hygrade for Item 18 is 1.84 times greater than the current market appraisal and 2.32 times greater than the next high bid.

The sales contracting officer states that the materials described in Items 17, 18 and 19 sold during 1974 under Sale 41-4156 were awarded at prices of \$.1010, \$.07125, and \$.1020 per pound, respectively. A comparison of all bids received in 1974 for the material described in Items 17, 18 and 19 with this year's bids shows that the latter bids, including Hygrade's, were generally lower. This factor, in conjunction with establishment of a current market appraisal for Item 18 significantly less than the award price in 1974 indicates that the sales office was on notice of a generally declining market for this item. Hygrade's bid of \$.092 is an exception to this pattern, while its alleged intended bid of \$.0092 would be consistent with the pattern. This Office has recognized that bidding patterns can be a basis for charging a contracting officer with constructive knowledge of error. B-181284, July 5, 1974. The bidding pattern clearly establishes that Item 18 is of substantially less value than Items 17 and 19 and that the market value of the type of property involved is less this year than in 1974.

The bidding pattern and the disparity in bids for Item 18 were sufficient to place the contracting officer on constructive notice of a mistake in Hygrade's bid for Item 18 prior to award. Accordingly, since no verification of Hygrade's bid was requested or made, our Office will not object to reformation of the contract from the date of award to its cancellation to reduce the price of Item 18 to \$.0396, the amount of the second high bid, as administratively recommended. See City Iron and Metal Co., B-182388, November 25, 1974.

  
Deputy Comptroller General  
of the United States