

DECISION



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

60081

FILE: B-184730

DATE: October 24, 1975

MATTER OF: Montana Electric Supply

97795

DIGEST:

Where, after award, contractor alleges mistake in bid price which was only 5 percent lower than next lowest bid and 20 percent lower than Government estimate, such error was not so great as to have placed contracting officer on constructive notice of the possibility of a mistake in bid. Hence, no relief may be granted from contract awarded to contractor.

The Department of the Interior has requested our decision regarding a mistake in bid alleged by Montana Electric Supply, and the award to it of Contract No. 4-01-01-04800.

In response to an advertised IFB for the purchase of certain transmission line vibration dampers, the following two bids were received:

Montana Electric Supply	\$15,369.81
Dakota Electric Supply Co.	\$16,215.45

The Government estimate was \$18,491.70. Thus, Montana's bid was 5 percent lower than the next lowest bid and 20 percent lower than the Government estimate. Award was made to Montana as the lowest responsive, responsible bidder.

The materials furnished by Montana's supplier, Alcoa Conductor Products Company, did not meet specifications and were subsequently returned to Alcoa. In a letter to Montana, Alcoa has stated: "The bare truth of the matter is that we made a mistake on our original quotation to you. We quoted dampers to fit over the bare conductor--not over the armor rods as specified." Alcoa has provided the contracting officer with copies of its quotation to Montana, correspondence and price lists to show that the price given Montana was for the wrong item, which was less expensive than the correct item.

Alcoa later shipped complying dampers, for which Montana has been paid the contract price. Because the complying materials were higher in price than those originally furnished by Alcoa, Montana has requested that its contract price be increased by \$3,522.87.

Where, as here, a mistake in bid has been alleged after award of contract, this Office may grant relief only if such mistake was mutual or if the contracting officer had actual or constructive notice of the error prior to award. 45 Comp. Gen. 700, 706 (1966). The contracting officer will be charged with constructive knowledge of such error only where the subject bid price deviates significantly from the other bids received or from the Government's estimate. B-176517, September 6, 1972. The test is one of reasonableness; whether under the facts and circumstances of the particular case, there are factors which could have raised the presumption of error in the mind of the contracting officer. Wender Presses, Inc. v. United States, 170 Ct. Cl. 483, 486 (1965); B-176772, May 23, 1973. Generally, a contracting officer has no reason to suspect error where a low bid is in line with other bids received and with the Government estimate. B-179725, October 30, 1973.

In the matter presently before us, the bid price of Montana was only 5 percent lower than that of the other bidder and 20 percent lower than the Government's estimate. We believe that these differences were not so great as to have placed the contracting officer on constructive notice of the possibility of error. B-178731, August 3, 1973. Hence, acceptance of Montana's bid in these circumstances created a valid and binding contract from which this Office may not grant relief.


Deputy Comptroller General
of the United States