

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

FILE: B-185958

DATE: May 3, 1976

MATTER OF: Harliss Specialties Corp.

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98988**DIGEST:**

Rescission of contract, based on unilateral mistake, can only be allowed where contracting officer had actual or constructive notice of error. Contracting officer was not placed on actual or constructive notice of error where high bid for used surplus property was only 2 times greater than next bid and 1.39 times above current market appraisal. Therefore, contract may not be rescinded.

Invitation for bids (IFB) No. 27-6105, for the sale of surplus machine tools, was issued by the Defense Property Disposal Region, Columbus, Ohio. Harliss Specialties Corp. (Harliss) submitted the high bid of \$6,958 for item 17, a milling machine. Award was subsequently made to Harliss. After award Harliss alleged that it had made a mistake in its bid for item 17 and had, in fact, intended its bid to be for a brake press described by item 18.

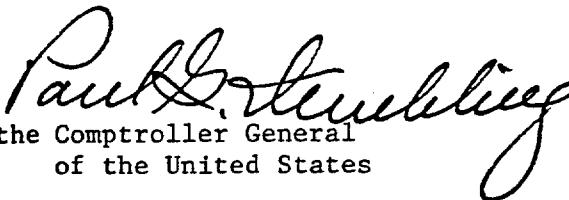
Harliss submitted its work sheets which indicated that certain figures and computations (which Harliss claims relate to item 18) were written next to item 18. According to Harliss, since there was no room for the price next to item 18, it put the price next to item 17. Harliss requested rescission of its contract for item 17, and the sales activity denied Harliss' request.

The general rule is that a bidder is bound by his unilateral mistake in bid unless the contracting officer had actual or constructive notice of the mistake before the award was made. Wender Presses, Inc. v. United States, 170 Ct. Cl. 483 (1965). In a sale of surplus property, a wide range of bids ordinarily is not deemed to be constructive notice of error. United States v. Sabin Metal Corporation, 151 F. Supp. 683 (S.D.N.Y. 1957), affirmed 253 F.2d 956 (2d Cir. 1958); Rodman N. Barker, B-182632, February 19, 1975, 75-1 CPD 104; Bimco Corporation, B-185519, January 26, 1976, 76-1 CPD 45; B-160226, November 3, 1966.

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A review of the record before this Office indicates that Harliss' bid of \$6,958 represents only 58.84 percent of the acquisition cost (\$11,825) of item 17, which is described as used property in good condition, whereas Harliss' bid is 155 percent of the acquisition cost (\$4,500) of item 18, which is described as used property in fair condition. Also, Harliss' bid price was only 1.39 times greater than the current market appraisal (\$5,000) established prior to bid opening, and approximately 2 times greater than the next high bid (\$3,477.77) received.

In light of the above, it is our view that the contracting officer was not placed on constructive notice of possible error in the bid of Harliss. The disparity between Harliss' bid and the other bids standing alone would not have raised the presumption of error. Therefore, there is no legal basis on which the sales contract with Harliss can be rescinded.

  
For the Comptroller General  
of the United States