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**DECISION**



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

FILE: 3-189714

DATE: April 20, 1978

MATTER OF: Bromley Contracting Co. Inc.

**DIGEST:**

Request after award for reformation of contract price because of misinterpretation of contract drawings is denied, since there was nothing to charge contracting officer with notice of mistake in bid.

The Bromley Contracting Co. Inc. (Bromley) requests reformation of contract GS-00B-01808 with the General Services Administration (GSA), Public Buildings Service, because of an error in bid alleged after award.

The solicitation was issued May 9, 1973, for construction of a concrete sidewalk, waterproofing a patio and installing power doors at the Federal Building, Charlottesville, Virginia. The four bids received by the June 13, 1973, opening date were:

<u>Bidder</u>	<u>Amount</u>
Bromley	\$27,234
Building Maintenance Corp.	\$37,833
Marsteller Corporation	\$51,000
Karma Construction Co., Inc.	\$72,500

B-189714

GSA's prebidding estimate was \$17,200. Under the circumstances, the GSA procuring unit requested the estimating unit to "check" the estimate. The estimate was increased to \$30,950 because of an error in the quantity takeoff. Award was thereafter made to Bromley on June 27, 1973.

By letter of December 21, 1973, Bromley advised the contracting officer that the contract costs were well in excess of the contract price because there was no provision to alert bidders that the contract drawings were half-size and it overlooked the fact and underbid the job. Bromley requested the contracting officer to inform it if there was any recourse and, if so, what procedure to follow.

By letter dated January 16, 1974, the contracting officer advised Bromley:

"Your bid of \$27,234 was considered reasonable when compared with the Government's estimate of cost; otherwise we would have inquired if you fully understood the contract requirements.

"We know of no legal basis for changing the contract price, once the contract has been executed, under circumstances such as this."

Thereafter, Bromley filed a claim for an increase in the contract price on the basis that the drawings constituted defective specifications. On April 3, 1974, the contracting officer denied the claim. Bromley appealed to the General Services Administration Board of Contract Appeals (GSBCA). GSBCA denied Bromley's claim by decision dated February 26, 1975, which stated in part:

"Our examination of the drawings compels the conclusion that their half-size nature is obvious from a simple comparison of

B-189714

the dimensioned parts to the scale. We find the discrepancy sufficiently obvious to conclude that it should not reasonably have misled an experienced contractor such as Appellant. If it did, Appellant must nonetheless bear the consequences of its failure to make prebid inquiry of this patent ambiguity. Chris Berg, Inc. v. United States, 197 Ct. Cl. 503, 455 F.2d 1037 (1972); Merando, Inc., GSBGA 3573, 72-2 BCA 9706. In either event the appeal must be denied."

Bromley requests our Office to permit reformation of the contract as the result of the alleged mistake in bid price made by not realizing that the drawings were half-size. Bromley contends that GSA violated the mistake in bid regulations (FPR § 1-2.405-1 (1964 ed. circ. 1) by not seeking verification of the bid. Bromley argues that the variance between the bids placed the Government on notice of a possible misinterpretation of the contract requirements.

Bromley refers to several decisions wherein our Office allowed reformation of a contract where we concluded that a mutual mistake existed or where we concluded that the contracting officer was given actual or constructive notice of the possibility of a mistake but failed to request verification of a bid prior to award. Further, Bromley contends that, because the estimated cost range in the solicitation was "under \$25,000" and its bid exceeded the estimate, neither it nor GSA reviewed the bid when it would have been verified if the estimate was actually known to be \$30,950.


In determining whether a contracting officer has a duty to verify bid prices, we have stated that the test is whether under the facts and circumstances of the particular case there were any factors which reasonably should have raised the presumption of error in the mind of the contracting officer, without making it necessary for the contracting officer to assume the burden of examining every bid for possible error. R. E. Lee Electric Co., Inc., B-184249, November 14, 1975, 75-2 CPD 305.

B-189714

In our view, the bid of \$27,234 was in line with the \$30,950 estimate and the next low bid of \$37,833 so that verification was not required. While Bromley has indicated that it would have reviewed its bid if it knew the Government's estimate was \$30,950, presumably because of the spread between the two prices, the fact remains that there was an even greater difference between its bid and the \$37,833 next low bid as revealed in a public opening of bids, and apparently it did nothing. Certainly, if it contends that the \$3,716 difference between its bid and the Government estimate would have alerted it to the possibility of error, it seems that the \$10,599 spread between the two low bids should have been a greater impetus. Further, there is nothing in the bid showing the error made and no evidence of actual notice to the contracting officer prior to award of an error in the bid. Therefore, we do not believe that the contracting officer acted unreasonably in not requesting verification of the bid. See Bromley Contracting Co., Inc., B-189972, February 8, 1978, 78-1 CFD 106. Accordingly, the request for reformation is denied.

GSA has also maintained that Bromley is precluded from asserting a mistake in bid claim because Bromley on March 8, 1974, released the Government "from any and all claims arising under or by virtue of" contract No. GS-00B-01808, except one identified as a claim for "Defective Specification - Drawing Error" in the amount of \$15,000. Since Bromley excepted no claim for of mistake in bid from the release, GSA contends it is now barred from doing so. In view of the fact that Bromley's claim is herein denied, we need not consider the effect of such a release. Bromley Contracting Co., Inc., supra.

Deputy

  
Comptroller General  
of the United States