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DECISION



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

FILE: B-191630

DATE: June 8, 1978

MATTER OF: A.L.M. Construction Company

DIGEST:

Where correct Government estimate for project should have been more than 100-percent higher than only bid received, contracting officer should have requested sole bidder to verify bid; therefore award based on erroneous bid should be rescinded.

This decision is in response to a letter of April 3, 1978, from the Department of Health, Education, and Welfare (HEW), recommending that its contract with A.L.M. Construction Company (ALM) be rescinded as requested by the contractor because of a mistake in bid.

Invitation for bids (IFB) No. 181770031 was issued on August 1, 1977, for construction work at the Indian Health Service Hospital (IHS), Pine Ridge, South Dakota. This work included the installation of a new elevator. On September 15, 1977, the contract was awarded to ALM, the only bidder. ALM subsequently discovered an error in the quotation from one of its subcontractors concerning the cost of the elevator.

ALM's bid on the contract was \$64,869. The Government's estimate of \$83,256 was approximately 28 percent higher than ALM's bid. Both of these prices were calculated in part on the Carter Elevator Company's (Carter) quotation for the installation of a new elevator. Apparently there was a misunderstanding regarding two separate elevator projects at Pine Ridge being bid upon, one at the Pine Ridge Government Center and one at the Pine Ridge Hospital. In preparing the Government's estimate for these two projects, an architect spoke with Carter and discussed a hydraulic-type elevator. The architect was referring to the elevator for the Pine Ridge Government Center. Carter estimated this elevator to cost \$33,000. The architect later questioned Carter concerning

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an estimate for a duplex, automated-type elevator intended for IHS. The cost for this elevator was estimated at \$83,000. However, in arriving at an estimate for the IHS project, the architect failed to utilize the \$83,000 estimate and used instead the \$33,000 amount. On September 13, 1977, ALM asked Carter for a quotation for the Pine Ridge project elevator. Carter assumed they were referring to the Pine Ridge Government Center and quoted \$30,030. The first time either ALM or Carter realized that they were talking about two different projects was on September 21, 1977, when ALM requested Carter to furnish written confirmation of its oral quotation.

The responsibility for the preparation of a bid rests with the bidder. As a general rule, therefore, when a bid has been accepted, the bidder is bound to perform and must bear the consequences of its unilateral mistake. Saligman v. United States, 56 F. (Supp.) 505 (E.D. Pa. 1944). Federal Procurement Regulations (FPR) § 1-2.406-1 (1964 ed. circ. 1) requires, however, that the contracting officer request verification of the bid in cases of apparent mistakes and where there is reason to believe that a mistake may have been made. We have held that no valid and binding contract is consummated where the contracting officer knew or should have known of the probability of error, but neglected to take proper steps to verify the bid. Unicorn Chemical Coatings, Inc., B-183932, June 20, 1975, 75-1 CPD 376. The test is one of reasonableness, whether under the facts and circumstances of the particular case there were any factors which reasonably could have raised the presumption of error in the mind of the contracting officer. Wender Presses, Inc., 343 F.2d 961, 963 (Ct. Cl. 1965).

In this case, the Government estimate for the project should have been more than 100 percent higher than ALM's bid. Had a correct Government estimate for the job been prepared, there is no doubt in our mind that the contracting officer should have requested ALM to verify the bid prior to award. B-149283, December 26, 1962; B-147702, March 13, 1962; B-147580, November 21, 1961.

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Accordingly, we agree with the recommendation that ALM's contract should be rescinded.

Atkinson
Acting Comptroller General
of the United States