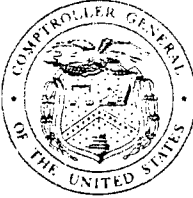


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**DECISION**



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

9609

FILE: B-193715

DATE: April 2, 1979

MATTER OF: Paragon Mechanical

**DIGEST:**

[Request by ~~contractor~~ for contract modification to remedy alleged clerical error in bid price preparation] can not be allowed where mistake was unilateral, there was no actual notice, and awardee's lump-sum bid was higher than Government estimated project cost and less than one percent lower than next lowest bid, thereby precluding possibility that mistake was so apparent as to warrant charging contracting officer with constructive notice.

Paragon Mechanical (Paragon) requests reformation of contract No. GS-06B-71060 due to a mistake in bid first alleged after award. The contract, awarded by Region 6 of the General Services Administration (GSA), is for renovations in the Federal Building in Kansas City, Missouri.

The invitation for bids (IFB) was issued by GSA on July 11, 1978, for base work consisting of modernizing 23 rest rooms. The IFB also called for a separate price as Alternate A, for renovation work in the "FSS Swing Room." At bid opening on August 10, 1978, Paragon was found to have submitted the low bid of \$569,460 for the base contract work, plus \$56,250 for Alternate A (total \$625,710). The next low bid, submitted by Mid-Western Construction Co., was \$578,335 for the base contract work and \$49,100 for Alternate A (total \$627,435). GSA had estimated the cost of the work at \$521,390 for the base contract work and \$38,300 for Alternate A (total \$559,690).

Paragon was awarded the contract, including Alternate A, on September 13, 1978, for \$625,710. Paragon commenced work on October 9, 1978. By letter dated October 31, 1978, Paragon first advised GSA that it had discovered a clerical error involving the incorrect carry-forward of subtotals in its bid calculations which caused an understatement of \$46,600. Paragon requested price adjustment in this amount, pursuant to the Federal Procurement Regulations (FPR) § 1-2.406-4. This request was denied by the contracting officer by letter dated November 20, 1978.

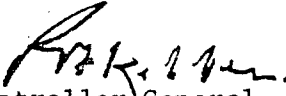
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The general rule applicable to a mistake in bid alleged after award is that since the sole responsibility for preparation of a bid rests with the bidder, where a bidder makes a mistake in bid it must bear the consequences of its mistake unless the mistake is mutual or the contracting officer was on actual or constructive notice of error prior to award. See Pak/Master, Inc., B-183620, July 10, 1975, 75-2 CPD 27; Cargill, Inc., B-190924, January 17, 1978, 78-1 CPD 43; Bromley Contracting Co., Inc., B-189972, February 8, 1978, 78-1 CPD 106; Morton Salt Company--Error in Bid, B-188392, April 19, 1977, 77-1 CPD 273.

Here, there is no allegation or indication of mutual error. Paragon does not allege that the contracting officer was on notice of the error but provides documentation for its clerical error and states that "to hold Paragon Mechanical to its original bid would be unfair and inequitable."

To reform the contract would require a showing that the contracting officer had actual or constructive notice of the error, neither of which is indicated in this case. The bids were made in lump sum only, thus the contracting officer did not have access to the subtotals in question which might have indicated the mistake. Paragon's price for the entire contract was only \$1,725 lower than the next low bid (less than a one percent difference), and the Government's estimate for the contract work was \$66,020 lower than Paragon's bid. In short, there was no actual knowledge and no basis for charging the contracting officer with constructive knowledge of the probability of mistake.

The acceptance of the contractor's bid was made in good faith and constituted a valid and binding contract; there is no legal basis for granting the reformation requested.

  
Deputy Comptroller General  
of the United States