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

FILE: B-207607.2 DATE: September 27, 1982

MATTER OF: See Clear Maintenance Corp.--
Reconsideration

DIGEST:

Prior decision is affirmed on reconsideration since the protester has not shown that it was based on an error of law or fact.

See Clear Maintenance Corp. requests that we reconsider our denial of the firm's protest against the General Services Administration's proposed award of a contract to Custodial Guidance Systems, Inc. for janitorial and elevator operator services. See Clear Maintenance Corp., B-207 07, August 23, 1982, 82-2 CPD ___. The basis for protest was that See Clear, the second low bidder, should be permitted to correct its bid and thereby displace Custodial Guidance Systems. We denied the protest because the bid actually intended was not ascertainable substantially from the bid itself. See Federal Procurement Regulations § 1-2.406-3(a)(3)(1964 ed.).

We affirm our decision.

The solicitation invited monthly prices for an initial six-month period and for a six-month option period. Award was to be based on the low total extended bid for both periods, as computed by the contracting officer--extended prices were not solicited. See Clear bid a monthly price for each six-month period, and inserted in the space above the two entries what purported to be the six-month extended prices. The base period extended price that See Clear inserted, however, was less than six times the monthly price entered. See Clear claimed that the extended price it inserted was the six-month price it actually intended, and requested that the monthly price it bid be adjusted downward to one-sixth of the extension.

See Clear's total price based on the extension of the monthly prices actually entered was $957,960, compared to the low bid of $945,630. See Clear's total price computed on the basis asserted by See Clear was $927,960.

In our decision, we noted that both the monthly price actually entered ($78,830) and the allegedly intended monthly price ($74,830) were reasonable. We pointed out that the only evidence in the bid to support See Clear's claim was the bid bond, which appeared to be based on a total bid of $927,960.

We first stated our view that it was important that the extended prices See Clear alleged should be relied on were not solicited. We stated that a bidder in that case should bear a particularly difficult burden to show that the solicited prices were mistaken and that the low bidder thus should be displaced.

We next pointed out that there were two apparent mistakes in the preparation of the bid bond itself: (1) while the IFB required a bond of five percent of the total bid, See Clear's bond was in an amount not to exceed $927,960, the full amount of the alleged intended bid (a bond of approximately $47,000 would support a bid of $927,960); and (2) the figure "927,960" appeared to have been written over another figure. We stated that these factors logically suggested that there may have been another error, that is, that See Clear in fact may have intended the bid bond to support a bid of $957,960, but merely carried over to the bond its own mistake in extending the monthly price that it had bid.

Finally, we pointed out that since the insufficiency of a bid bond can be waived in certain circumstances, we could not discount the possibility that a firm might intentionally submit an insufficient bid bond expecting that one of those circumstances might apply. We stated that this possibility simply added to the burden of a claimant seeking to displace the low bidder and using the bid bond as the sole evidence of its mistake.

Our Bid Protest Procedures require that a request for reconsideration specify an error of law or fact upon which reversal is deemed warranted. 4 C.F.R. § 21.9(a)(1982). In its request that we reconsider

our decision, See Clear argues that the facts in a number of decisions that we cited in denying the protest are distinguishable from those in See Clear's case. See Clear also disagrees with our view as to the relevance of the fact that extended prices were not solicited, and with our suggestion that the amount entered in the bid bond could have been mistaken.

The cases that See Clear complains about were not cited as precedents where the facts in the decisions were the same as those before us, but rather as basic source material indicating (1) the types of factors that we examine in deciding cases that involve bid corrections which would displace low bidders, and (2) that while the amount of a bid bond may be an appropriate consideration in determining whether an error occurred in the unit on the total price, it is not necessarily dispositive. See Clear's objection to the citations merely because the factual situations in the decisions are not identical to See Clear's thus does not demonstrate that our conclusion that See Clear's bid should not be corrected was based on an error of law or fact. See Action Manufacturing Company--Reconsideration; MBAssociates, B-186195, November 17, 1976, 76-2 CPD 424. See Clear's mere disagreement with our views about the relevance of the fact that GSA did not solicit extended prices, and our suggestion that the bid bond amount may have been in error, similarly does not constitute the presentation of any facts, arguments, or points of law that we did not consider in connection with the decision. See Sanitary Ice Systems, Inc.-Reconsideration, B-204685.2, February 8, 1982, 82-1 CPD 109.

Under the circumstances, our prior decision is affirmed.

Harry R. Van Cleve
Comptroller General
of the United States