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**Comptroller General  
of the United States**

**Washington, D.C. 20548**

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# Decision

**Matter of:** H. Angelo & Company, Inc.

**File:** B-281228.2

**Date:** April 12, 1999

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Michael C. Spring, Esq., Law Offices of David L. Swimmer, for the protester.  
Maj. Susan D. Tigner, Department of the Army, for the agency.  
Katherine I. Riback, Esq., and James Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Mistake in bid may not be corrected where the correction would result in the bid's displacement of two lower bids and the amount of intended bid cannot be ascertained from the bid and solicitation.

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## DECISION

H. Angelo & Company, Inc. protests an award to Robert Hall Associates, Inc. under invitation for bids (IFB) No. DABT10-98-B-0023, issued by the Department of the Army for the installation of cross connection back flow prevention devices at Fort Benning, Georgia. Angelo argues that the agency failed to allow it to correct its mistake in bid so that its bid was not considered to be low.

We deny the protest.

The IFB anticipated the award of a fixed-price indefinite-quantity contract. IFB § L.10. The IFB bid schedule required bidders to insert unit and total prices for 574 individual contract line items (CLIN) in the base period (CLINs 0001-0185), option year one (CLINs 1001-1185), and option year two (CLINs 2001-2204). Each CLIN included a narrative of the item and its estimated quantity. The bid schedule also required bidders to insert an "estimated aggregate amount" for the base period and the two option periods, which would represent the total of all of the CLINs in each period, and the "total estimate aggregate" of the base and option periods. The bid schedule instructions required that bidders include unit prices for each CLIN and stated that in the event of a discrepancy between a unit price and an extended price the unit price would be considered to be the bid. IFB at B-1. The IFB provided that bids would be evaluated for award by adding the prices for all options to the price for the base period. IFB § L.21.

The agency initially concluded that Angelo was the apparent low bidder based solely on the total estimated aggregate amount of \$3,053,607 stated in its bid. However, when the agency added the individual CLIN prices, it discovered that the sum of Angelo's individual CLINs was \$4,791,435, making it the third low bid. The agency determined that Robert Hall Associates, Inc. was the low bidder with a bid amount of \$3,141,707.20, and award was made to that firm. Agency Legal Memorandum at 2-3.

Angelo contends that the agency's determination failed to account for an obvious mistake in its bid that, if corrected, would result in its bid being low. Angelo explains that its prices for CLIN 1001 of option year one and CLIN 2001 of option year two were disproportionately high because they were in fact the total prices for performing all the work in the base year and in option year one, respectively. Angelo asserts that the solicitation did not contain a line for a total aggregate amount immediately following the CLINs in the base period and option period one, which misled it into inserting in the next CLINs appearing in the bid schedule the aggregate figures for the preceding years' work instead of the work actually described in CLINs 1001 and 2001. Protest at 3. Specifically Angelo states that it inserted the price of \$1,080,095 for CLIN 1001 (the same amount as its estimated aggregate amount for the base period), although its intended amount for this line item (installing a back flow prevention device in building 2505) was \$2,500. Similarly, Angelo contends that it inserted the price of \$757,983 in CLIN 2001 (the same amount as its estimated aggregate amount for option period one), although its intended amount for this line item (installing a back flow device in building 3306) was \$9,000. Angelo states that if the obviously erroneous prices included for these CLINs were disregarded and the inadvertently omitted prices for this work, totaling \$11,500, had been included, its bid would have been low. Angelo also asserts that it will perform all of the required work, including that required in buildings 2505 and 3306 for the prices set forth in the bid schedule, excluding the prices set out at CLINs 1001 and 2001, and that this will result in the work being performed in buildings 2505 and 3306 at no cost to the government. Protest at 4.

The agency denied Angelo's request for correction of its bid on the grounds that Angelo could not adequately prove its intended bid because, although there was evidence of a mistake, there was no evidence of Angelo's intended bid price ascertainable from the face of the bid. We agree.

The Federal Acquisition Regulation (FAR) § 14.407 allows for correction of mistakes in bids under specified circumstances. Where correction of a bid would result in displacing one or more lower bids, it may not be allowed unless the existence of the mistake and the bid actually intended are ascertainable substantially from the invitation and the bid itself. FAR § 14.407-3(a), Grunley Constr. Co., Inc., B-266344, Feb. 16, 1996, 96-1 CPD ¶ 100 at 3.

We first note that CLINs 1001 and 2001 unambiguously call for prices for the installation of back flow prevention devices in buildings 2505 and 3306, respectively, and do not suggest that they were intended to be totals for the base year and option year one CLINs.<sup>1</sup>

Also, as noted by the agency, the mistake in Angelo's bid is not capable of correction because it is impossible to ascertain from the bid and solicitation the bid amounts intended for CLINs 1001 and 2001, and thus the total bid. For example, Angelo's intended bids for these CLINs cannot be determined by adding up all of the other CLIN prices for option year one and option year two (excluding the figures that Angelo inserted for CLINs 1001 and 2001, respectively) and then subtracting this total from Angelo's estimated aggregate amount bid for option year one because the sum of these CLINs equals the figure that Angelo inserted on the top of the bid schedule as the estimated aggregate amount for option year one and option year two.<sup>2</sup>

Angelo's offer to perform all of the required work, including that required in buildings 2505 and 3306, for the prices set forth in the bid schedule (excluding the prices set out at CLINs 1001 and 2001, which it will perform at no cost to the government) does not allow for the acceptance of its bid, since a bidder is not permitted to waive a claim of error to remain the low bidder. Dynalectric Co., B-265762.2, Feb. 15, 1996, 96-1 CPD ¶ 97 at 4. To permit a bidder to do so would be to allow the bidder the impermissible option of either affirming its low bid or withdrawing it, depending upon which appeared to be in its best interest. William G. Tadlock Constr., B-251996, May 13, 1993, 93-1 CPD ¶ 382 at 4 n.1. Permitting such a choice would be inconsistent with the integrity of the competitive sealed-bidding system and would be prejudicial to other bidders. Id.

The protest is denied.

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<sup>1</sup> Angelo also does not dispute that these CLINs represent material items of work.

<sup>2</sup> That is, under this calculation a price of \$0 for these CLINs is indicated.