

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

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FILE: B-183913

DATE: June 9, 1975

MATTER OF: New Westminster Marine Sales and Service, Ltd.

**DIGEST:**

Bidder under surplus sales contract whose allegedly mistaken bid on one item was more than four times the next high bid (unit prices of \$511 and \$125, respectively) and almost ten times its bid price for similar equipment under another item number may have item deleted from its contract, since sales contracting officer was on constructive notice of a possible error. However, where record fails to indicate such a disparity in bid prices with regard to another item where the bidder also alleged mistake (unit bid prices of \$411 and \$289 by the high bidder and second high bidder, respectively) relief may not be granted.

Invitation for bids (IFB) 41-5143 was issued by the Defense Property Disposal Region, Defense Depot Ogden Station, Ogden, Utah, for the sale of various articles of surplus Government property.

New Westminster was the high bidder on items 66 and 67, in unit price amounts of \$511.00 and \$411.00, respectively. Item 66 was described as six 3-cylinder, liquid cooled diesel engine blocks, and item 67 as four 3-cylinder, liquid cooled diesel engines, all in various stages of disrepair. Consequently, the claimant was awarded these items under contract No. 41-5143-005, executed November 5, 1974.

By letter of November 8, 1974, the claimant requested rescission of the award and relief from a 20 percent penalty charge on the grounds that it erred in its bid for these items through a misreading of their description which resulted in a substantial over-bid. By letter of December 5, 1974, the claimant repeated its request for relief, this time contending the error was committed in the course of transfer from the work sheet to the bid sheet. By letter of December 9, 1974, the claimant submitted its worksheets at the request of the contracting officer. The claimant states that it intended to bid a unit price of \$51.10 on item 66, and a unit price of \$41.10 on item 67. As support for such contention, the claimant states that it bid \$52.00 on similar engine blocks on item 61.

It has been determined by the agency that the evidence was sufficient to charge the contracting officer with constructive notice of a possible mistake with regard to item 66, but that the record would not support such a conclusion with regard to item 67. Accordingly, it has been recommended that item 66 be deleted from the contract but that relief be denied for item 67.

The agency bases its recommendation upon the fact that the claimant's bid on item 66 was more than four times that of the second high bid for that item of \$125, that its unit price bid under item 61, engine blocks of substantially similar description, was only \$52.00 compared to a high bid of \$125.00 for item 61, and that the other bids for items 61 and 66 did not vary that greatly. The agency concludes that these factors should have placed the contracting officer on notice of a possible error.

Concerning item 67, which was substantially identical to item 60, the claimant's price of \$411 was not considered to be so far out of line with the range of other prices (\$91.91 to \$289.00) as to place the contracting officer on notice of a possible error as to that item. Nor was it considered out of line with the relative values placed on items 60, 63 and 64 by other bidders. Items 63 and 64 were 4 cylinder diesel engines. (We note, also, that the claimant bid a unit price of \$236.00 for the 3 cylinder diesel engines under item 60.)


Rescission of such a contract may be allowed only if the contracting officer was on actual or constructive notice of a possible mistake. See Calumet Y Farm Store, B-181284, July 5, 1974, and the decisions cited therein.

Based on our review of the record, we concur with the agency that the disparity between the claimant's bid on item 66 and that of the second high bid, as well as the relation of its bid on 66 to its bid and the other bids under item 61 for the similar equipment was of a magnitude as to charge the contracting officer with constructive notice of the error. Therefore, we agree with the agency's recommendation to delete item 66 from the contract.

With regard to item 67, we do not consider the bid price to be so out of line with either the range of other prices under item 67 or the range of prices for the similar equipment under item 60 as to alert the contracting officer to the possibility of mistake.

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Therefore, with regard to item 67, for which the claimant bid a total sum of \$1644.00, it is our conclusion that the similar relief from the contract is inappropriate.

  
Deputy Comptroller General  
of the United States