

**DECISION**



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

60343

FILE: B-184271

DATE: December 31, 1975

099 ~~386~~  
280  
279

MATTER OF: Building Maintenance Corporation

**DIGEST:**

Where mistake in low bid was alleged prior to award and bidder presented clear and convincing evidence of nature and existence of mistake and bid actually intended, and corrected bid does not displace any other bidder, this Office will not disturb administrative determination to allow correction since there is reasonable basis therefor.

Building Maintenance Corporation (BMC) protests the award of a contract to J. L. Mayfield Company, Inc. (Mayfield), and any modification of its bid to repair the airmen's swimming pool at Bergstrom Air Force Base, Texas, under invitation for bids (IFB) F41687-75-09088, issued by the United States Air Force (Air Force), Procurement Division, Del Valle, Texas.

The two responses received at the June 18, 1975, bid opening were Mayfield's low bid of \$19,715 and BMC's bid of \$106,733. The IFB had stated that the estimated cost of this construction project was between \$25,000 and \$100,000, and the Government estimate was \$58,300. In view of the possibility of an error in the low bid, by letter dated June 18, 1975, the contracting officer requested that Mayfield verify its bid price. Prior to the receipt of this letter, Mayfield called the procurement office on June 19, 1975, and stated that it had made a mistake in its bid. Specifically, it alleged that its supplier's telephone quotation for 325 lineal feet of 1/4-inch frost-proof tile at forty dollars (\$40) per lineal foot was received by its secretary and incorrectly recorded as four dollars (\$4) per lineal foot. The worksheets and other documentation supporting its allegation, forwarded by Mayfield in a letter dated June 19, 1975, showed that the correct bid should have been \$35,327.

On June 25, 1975, the Air Force found that clear and convincing evidence existed both as to Mayfield's mistake in bid and as to the bid actually intended. Therefore, it determined that Mayfield should be permitted to modify its bid by changing the lump sum bid from \$19,715 to \$35,327.

BMC contends that withdrawal of the bid is the only relief available to Mayfield after it alleged prior to award that a mistake had been made in its lump sum bid. It argues that the invitation did not call for unit prices for tile; therefore, it is contended that Mayfield could not base the request for reformation on an item not included on the face of the IFB or its bid as submitted. Moreover, BMC maintains that the contracting officer accepted without verification the evidence Mayfield offered to support its claim in order to make an award at a low price.

Where a mistake in bid is alleged prior to award, it is the established position of our Office that to permit correction a bidder must submit clear and convincing evidence that: (1) an error has been made; (2) the manner in which the error occurred; and (3) the intended bid price. Similar basic requirements for permitting the correction of a bid are found in § 2-406.3(a)(2) (1974 ed.) of the Armed Services Procurement Regulation. The authority to correct mistakes alleged after bid opening but prior to award is vested in the procuring agency. Although the General Accounting Office (GAO) retains the right to review such administrative determinations, our Office will not question a factual determination permitting correction unless there is no reasonable basis for the decision. See 53 Comp. Gen. 232, 235 (1973).

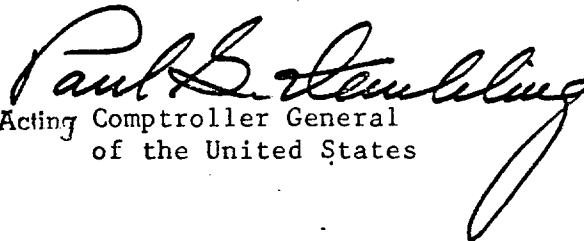
Based upon our review of the record, we are of the opinion the Air Force determination that Mayfield had established its mistake and intended bid price through clear and convincing evidence was reasonable. The worksheets submitted as evidence show that Mayfield had used \$4.00 as the price, for the tile based upon its secretary's recording of this amount as quoted by George Paz Ceramic Tile in a telephone conversation at 10:50 a.m. on June 18, 1975. However, Mayfield submitted to the contracting officer an affidavit from the supplier to the effect that he had quoted a price of \$40.00 to the secretary. In view of this evidence as to the mistake and intended bid price, and the fact that the correction does not make Mayfield's bid higher than the next lowest bid, we are not required to object to such action. Capay Painting Corporation, B-183546, July 1, 1975, 75-2 CPD 4; 37 Comp. Gen. 210, 212 (1957).

BMC's contention that a lump sum bid for a construction contract cannot be corrected by showing an error in the calculations upon which the total is based is without merit. The very nature of a bid for a construction contract requires it

to be based upon consideration of various costs. Where a mistake in computing those costs is alleged, correction is contingent upon the weight to be given any evidence offered as proof thereof by the administratively designated evaluator, whose decision will not be disturbed unless there is no reasonable basis for the decision. In 53 Comp. Gen. 232, 235-36, supra, we stated that:

"This procedure for the correction of a bid after bid opening is consonant with the statutes requiring advertising for bids and the award of contracts to the lowest responsible, responsive bidders, since these statutes are for the benefit of the United States in securing both free competition and the lowest competitive prices in its procurement activities. See B-148117, March 22, 1962. Therefore, where these procedures are strictly followed so that the integrity of the competitive bidding system is not prejudiced, the United States should have the cost benefit of the bid as corrected, provided that it is still lower than any other bid submitted. This procedure does not prejudice the other bidders, since correction will only be made upon a convincing showing of what the bid would have been at bid opening but for the mistake. In any case, this procedure is not for the benefit of the other bidders, but rather it is for the benefit of the United States so it can receive the procured goods or services at the lowest possible price."

Accordingly, we find no legal basis to question the administrative determination that Mayfield's bid should be corrected and, therefore, the Building Maintenance Corporation protest is denied.

  
Acting Comptroller General  
of the United States