

DOCUMENT RESUME

02972 - [A1932974]

[Request for Review of Matter before Court]. B-189280. July 6, 1977. 2 pp.

Decision re: Volpe Construction Co., Inc.; by Paul G. Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: General Government: Other General Government (806).

Organization Concerned: Massachusetts Bay Transportation

Authority: Urban Mass Transportation Administration.

Authority: B-185874 (1977).

Review was requested of refusal by the Massachusetts Bay Transportation Authority to allow a bid to be withdrawn after an error said to result from clerical error was noted. Since the issue had been brought to court, GAO, in accordance with its policy, did not review the matter. (HTW)

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DECISION



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

M. Boyle
Proc. J.

FILE: B-189280

DATE: July 6, 1977

MATTER OF: The Volpe Construction Co., Inc.

DIGEST:

GAO will not review grantee's determination and concurrence by grantor agency concerning mistake in bid when material issues involved are before court of competent jurisdiction, unless court expresses interest in receiving GAO views, which is not the case here.

On May 17, 1977, The Volpe Construction Co., Inc. (Volpe), submitted a bid in response to a solicitation issued by the Massachusetts Bay Transportation Authority (MBTA) for construction of certain bus storage and maintenance facilities. The project is subject to a financial assistance contract between MBTA and the Urban Mass Transit Administration of the Department of Transportation (UMTA).

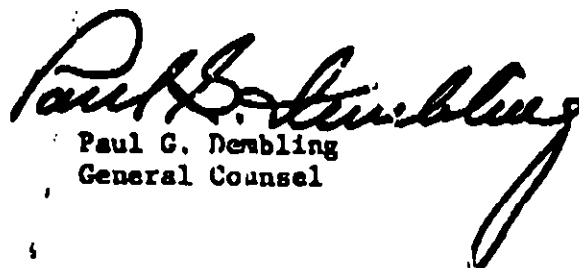
Volpe's total bid as shown on the facesheet, as well as the final sheet of the bid form, was \$9,981,319, resulting in Volpe being the second low bidder. Later MBTA noted a discrepancy between the sum of the written unit prices and total bid price. The sum of the written unit prices was \$9,498,383, resulting in Volpe being the apparent low bidder. Volpe contends that the mistake in its bid was caused by clerical error and that MBTA should permit Volpe's bid to be withdrawn.

When MBTA refused to allow the bid to be withdrawn, and UMTA concurred, Volpe requested that our Office review the matter. Subsequently, in order to prevent MBTA from awarding the contract to Volpe and perhaps requiring Volpe to forfeit its bid bond in the amount of \$600,000, Volpe filed suit in a Superior Court of Massachusetts and obtained a restraining order.

It is the policy of our Office not to review matters where the material issues involved are before a court of competent jurisdiction unless the court expresses an interest in receiving our views, which is not the case here. Sovereign Construction Company, Ltd; City of Philadelphia, B-185874, March 8, 1977, 77-1 CPO 168.

B-189280

Accordingly, we will take no further action on the matter.


Paul G. Denbling
General Counsel