

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

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FILE: B-210392**DATE:** June 10, 1983**MATTER OF:** East Bay Auto Supply, Inc.**DIGEST:**

Where award is made in good faith to a firm ultimately found not to have been the low bidder because of a mistake in a higher bid alleged only after award which, if corrected, would have displaced the awardee as low, the contract is not illegal and therefore need not be canceled. In addition, GAO will not recommend termination for convenience since the bidder's error in computing the bid total and its failure to bring the error to the contracting officer's attention before award contributed to the erroneous evaluation.

East Bay Auto Supply, Inc. protests the Department of the Army's award of a requirements contract to operate an auto parts store at Fort Bragg, North Carolina, to Wheeler Brothers, Inc. under invitation for bids (IFB) No. DAKF40-83-B-0004. East Bay, the fourth low bidder, has alleged, after the award to Wheeler Brothers, a mathematical mistake in its bid. If the bid were corrected, East Bay's bid would be lower than was Wheeler Brothers' bid. East Bay therefore requests correction of its bid and termination of the contract with Wheeler Brothers. We deny the protest.

The IFB was issued on November 17, 1982, with bid opening on December 22. The IFB requested a separate bid for each of four line items, and a total price for the four items (designated as item No. 5), upon which the bids would be evaluated. Eleven bids were received, and the four lowest responsive bids for item No. 5 were as follows:

Wheeler Brothers	\$646,768
T & L Auto Parts	\$656,210
One Stop Auto Parts	\$656,290
East Bay	\$661,608

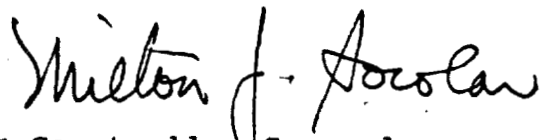
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Award was made to Wheeler Brothers on December 23. By letter of January 5, 1983 East Bay has alleged a mathematical error in its bid, and asserted that the total price for the four items should have been listed under item No. 5 as \$643,608. The mistake alleged is in East Bay's addition of the four line items on the schedule. East Bay complains that the contracting officer did not verify East Bay's bid, in violation of Defense Acquisition Regulation (DAR) § 2-406.1 (1976 ed.), which states that a contracting officer shall examine all bids for error and obtain verification from a bidder where there is a mistake suspected. East Bay suggests that the contracting officer should have added the four line items himself to insure that East Bay's total entered in item No. 5 was mathematically correct.

East Bay is correct that a contracting officer has a duty before awarding a contract to scrutinize all bids, including the fourth low bid, for mistakes. Where, however, an award is made in good faith to a firm ultimately found not to have been the low bidder because of a mistake in another bid discovered only after award, the award is not illegal and thus need not be canceled. R. A. Jones Company, B-180293, April 26, 1974, 74-1 CPD 218. Moreover, although in some cases we have recommended termination for convenience of a contract awarded to other than the actual low bidder, and then award to that firm, we generally have done so only where the actual low bidder did nothing to contribute to the erroneous evaluation. We stated in R. A. Jones, which involved facts very similar to those here, that we would not similarly disturb an award where the erroneous evaluation appears to have been significantly influenced by the bidder's own error in the preparation of its bid and the bidder's failure to assert the error prior to award.

Since the award to Wheeler Brothers was not illegal, and since East Bay made the error in the preparation of its bid so that the circumstances do not warrant termination of the contract for the Government's convenience, we deny East Bay's request for bid correction and award to it.

The protest is denied.



Acting Comptroller General
of the United States