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DECISION



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

FILE: B-213080

DATE: May 15, 1984

MATTER OF: Air Systems Engineering, Inc.

DIGEST:

Where mistake in bid is alleged prior to award and the bidder presents clear and convincing evidence of a mistake in the bid and of the bid actually intended by submitting worksheets used in preparing cost estimates and where bid as corrected remains low, there is a reasonable basis for the agency determination to allow bid correction so as to reflect the intended bid.

Air Systems Engineering, Inc. (Air Systems), protests the decision by the Veterans Administration (VA) to permit Kamex Construction Company (Kamex) to correct a mistake in its bid and the subsequent award of a contract to Kamex under invitation for bids (IFB) No. 596-70-83. For the reasons discussed below, we deny the protest.

The IFB solicited bids to install (1) a duplex air-conditioning unit in the operating room and (2) a heating/ventilation/air-conditioning (HVAC) recovery system for the medical center at the VA Hospital in Lexington, Kentucky. The IFB required bidders to provide both a total price for the two requirements and a separate breakdown showing the price bid for each.

Kamex bid a total cost of \$358,200 and broke out the cost of the two portions of the contract as follows:

- A. Install Duplex Air-Conditioning Unit in Operating Room \$ 78,100
- B. HVAC Recovery System \$358,200

Other total bid prices ranged from \$439,685 to \$544,220. The government's estimate for the project was \$509,000. Suspecting a mistake in Kamex's bid, VA requested that Kamex verify its bid price.

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Kamex stated that its bid did contain a mistake in that it failed to total the costs of both portions of the contract, but, instead, quoted the cost of the HVAC portion of the contract as the total bid price. Kamex requested that the mistake be corrected to reflect the total cost of the two items, or \$436,300. Kamex supplied worksheets which reflected separate calculations for the two portions of the project.

From the evidence submitted, the contracting officer concluded that the intended total price of Kamex's bid should have been \$436,300 and allowed correction. Air Systems protested the contracting officer's decision, alleging that Kamex's corrected bid is not substantiated by the record. Air Systems believes that Kamex's bid should have been rejected and award made to Air Systems.

Our Office has held that in order to permit correction of an error in bid prior to award, a bidder must submit clear and convincing evidence that the mistake was made, the manner in which the mistake occurred and the intended price. Specialty Systems, Inc., B-204577, February 9, 1982, 82-1 CPD 114. Where upward correction is requested and the bidder is low with or without correction, so that no higher bidder is prejudiced, the evidence furnished may include worksheets and any other data that establishes the elements needed for the correction. Raymond L. Crawford Construction Company, B-211516, August 23, 1983, 83-2 CPD 239.

We have held, however, that the closer an asserted bid is to the next low bid, the more difficult it is to establish that the amount claimed was the bid actually intended. R.H. Whelan Co., B-203248, August 11, 1981, 81-2 CPD 123. We recognize that correction in this case would establish Kamex's bid at \$436,300, which is only approximately \$3,400 less than the next low bid of Air Systems. Nonetheless, the record clearly and convincingly establishes the intended bid.

The weight to be given the evidence in support of an alleged mistake is a question of fact to be considered by the administratively designated evaluator of evidence, whose decision will not be disturbed by our Office unless there is no reasonable basis for the decision. G.N. Construction, Inc., B-209641, June 2, 1983, 83-1 CPD 598.

Under the circumstances, we believe that VA's correction of Kamex's bid is proper. The protest is denied.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General
of the United States