

Spangenberg

DECISION



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

FILE: B-221230.5

DATE: May 1, 1986

MATTER OF: JWK International Corporation--Request for Reconsideration

DIGEST:

Correction of an alleged mistake in proposal after selection and before award constitutes discussions where other offerors are prejudiced by the correction.

JWK International Corporation (JWK) requests reconsideration of our decision in ALM, Incorporated, B-221230.3 et al., Mar. 11, 1986, 65 Comp. Gen. _____, 86-1 C.P.D. ¶ _____, wherein we sustained the protest of ALM, Incorporated (ALM), against an award to JWK under request for proposals (RFP) No. N68520-85-R-9065, issued by the Naval Aviation Logistics Center, Patuxent River, Maryland. The RFP solicited proposals for support services for two Naval Air Rework Facilities. We affirm our previous decision.

We sustained ALM's protest because JWK was permitted to increase its total proposed cost 19 percent after selection, but prior to award, to correct an alleged mistake in JWK's proposal price. Although, from the record, we were unable to confirm the fact or nature of the mistake, we found that this correction was not a minor clarification and was unquestionably prejudicial to the position of the offerors within the competitive range. In this regard, we found that if JWK's revised total cost was used in the cost/technical tradeoff formula used by the contracting officer in selecting the successful contractor, instead of JWK's initial proposal cost, JWK would no longer be the highest rated. Therefore, any correction of JWK's proposed cost would necessarily involve discussions, thereby requiring meaningful discussions with all offerors within the competitive range. We recommended that discussions be opened with all offerors within the competitive range for the remaining contract work. If JWK was not the highest rated offeror after receipt and evaluation of the solicited best and final offers, we recommended that its contract be terminated for the convenience of the government and award made to the highest rated offeror.

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JWK asserts that no price discussions of any kind were held with the Navy, but JWK only responded to the Navy's request to correct certain mathematical errors in JWK's cost proposal. JWK claims that, with the exception of correcting these clerical mistakes, it was not given the opportunity to, nor did it, revise or modify its proposal.

As discussed in our previous decision, mistakes in proposal cannot be corrected without opening discussions, if the resulting communication prejudices the interests of the other offerors. Federal Acquisition Regulation, 48 C.F.R. §§ 15.607(a), 15.607(c)(5) (1984). In its reconsideration request, JWK does not address the fact that if JWK's corrected costs are used in the precise technical/cost tradeoff formula used to select the successful offeror, JWK no longer has the best score. It follows that the interests of the other offerors within the competitive range are prejudiced if the correction were permitted without further discussions with all offerors within the competitive range. Therefore, since JWK's proposal price could only be corrected through discussions, the regulation required meaningful discussions with all offerors within the competitive range.

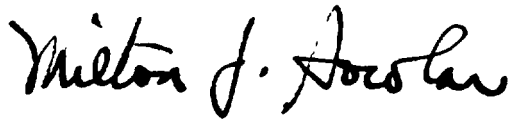
JWK also claims that our Office did not avail itself of certain information that was, and is, available that may have influenced the decision. JWK particularly refers to our Office's inability to ascertain the fact or nature of JWK's mistake. JWK claims that our Office should request JWK to provide this relevant information, which JWK did not supply with its request for reconsideration. JWK also claims that our decision only gave weight to the magnitude of the change in JWK's total proposal cost without any analysis or comparison of JWK's unit prices.

Our decision only discussed JWK's total proposal cost because this was the figure used by the contracting officer in making contract selection, not JWK's unit prices. Moreover, as indicated above, our decision did not turn on whether or not JWK made a bona fide mistake, but on the fact that correcting the alleged mistake would significantly increase its price such that JWK would no longer be the highest ranked offeror. Consequently, any further information regarding the fact and nature of the mistake would not change our decision.

Finally, JWK contends that the recommendation to open discussions is prejudicial to JWK, since its contract price has been publicized. However, the Navy has advised our

Office that the total proposal costs of all offerors will be released to those offerors in the competitive range when discussions are opened. We believe this addresses JWK's concern.

In view of the foregoing, our prior decision is affirmed.

for 
Comptroller General
of the United States