

**DECISION**



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

**FILE:** B-222422

**DATE:** July 17, 1986

**MATTER OF:** United Digital Networks, Inc.

**DIGEST:**

Discrepancies between unit and extended prices and between total cost and costs of line items that comprised that total may not be corrected where the intended bid cannot be ascertained from the bid and the bidder provides no other evidence to establish the allegedly intended bid.

United Digital Networks, Inc. (UDN), protests a contract award to GTE, Inc., by the Veterans Administration (VA) under invitation for bids (IFB) No. 500-72-85. UDN asserts that GTE submitted a nonresponsive bid and that the VA improperly permitted GTE to correct mistakes in the bid.

We sustain the protest.

The procurement, to obtain a telephone and public address system at the VA Medical Center in Albany, New York, was conducted in two steps. The VA received and evaluated technical proposals in the first step. The protest concerns the second step, under which those offerors with acceptable technical proposals submitted their bids.

The step-two IFB requested the bidder to choose from among lease, lease with option to purchase and purchase option plans; the protest concerns the purchase option only. For whichever plan the bidder chose, the firm had to provide costs for the replacement of a telephone system and the installation of a public address system, including, for each system, costs for maintenance, follow-on service and growth, and data.

As part of its submission, each bidder was required to complete a bid worksheet showing the various cost elements of the system, and a Bid Proposal Summary Form. The documents were very detailed and in a number of places required the bidder to provide the totals of entries made elsewhere in the forms.

Four bids were submitted in response to the IFB, with GTE and UDN bidding on the purchase option. The contracting

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officer noted that GTE had reproduced the worksheet and Bid Proposal Summary Form in a computerized version, and that GTE's Summary Form did not include the required totals for the system components. The contracting officer took sub-totals from another part of GTE's Summary Form, calculated a total bid for GTE and, after reviewing all four bids, announced that GTE submitted the apparent low bid of \$1,743,931.82. UDN's bid of \$1,767,814 was second low--less than \$24,000 more than GTE's.

Immediately after bid opening, the contracting officer called GTE and requested that a GTE representative verify GTE's bid total. The representative stated that he believed the total was \$1,814,271.02, which is \$70,339.20 more than the announced total, but that he would check and call back. That same day, before the GTE representative called back, the VA received a modification to GTE's Summary Form, which increased the cost of the telephone system, the major part of the purchase, by \$70,339.20, from \$1,586,584.91 to \$1,656,924.11. Later that afternoon, the contracting officer informed GTE that since the modification was received after bid opening it could not be accepted, but that GTE could submit a mistake-in-bid claim. The GTE representative subsequently advised that GTE's total bid was \$1,743,931.82, the amount stated at bid opening.

After bid opening, the contracting officer sent the four bids to the contracting officer's technical representative for a line-by-line cost analysis of the bid worksheets and attachments. During this review, the technical representative found a multiplication error with respect to maintenance in the telephone system worksheet that accompanied GTE's bid. As submitted, the bid, with the underscored figures being GTE's entries, showed:

"B. Maint (2 - 10 yrs.)

MRC \$1,154.00 x 108 x .773 = \$315,967.50"

The technical representative noted that correct arithmetic extension of \$1,154 is \$96,340.54, so that the error had the apparent effect of overstating GTE's bid by \$219,626.96. The contracting officer so informed GTE, and asked the firm either to verify the new total or to submit a mistake-in-bid claim.

GTE responded that, in fact, there was an error in that line and that documentation would be provided. GTE also alleged that there was another mistake in the same document, dealing with the installation/purchase cost, in the amount of \$70,339.20. GTE explained that the error resulted when a

secretary transferred the wrong figures from GTE's internal worksheet onto the sheet that was submitted to the VA with GTE's bid. The alleged difference is:

A. INSTALLATION/PURCHASE	<u>Submitted</u>	<u>Corrected</u>
2. EPABX Switch/Console/ Management and Directory System	\$601,996.86	\$531,651.66
9. Total EPABX Installation/ Purchase Cost	\$906,572.21	\$836,233.01

GTE, however, neither provided documentation to show how the error was made nor referenced the worksheet error regarding maintenance.

Over the next few months, the VA contacted GTE a number of times to obtain documentation on the alleged errors in GTE's bid. In response, GTE submitted a letter explaining GTE's pricing procedure; a copy of the worksheet to show \$96,340.54 as the correct intended bid for maintenance; a copy of GTE's internal contract pricing sheet which showed \$836,233.01 as the total telephone installation/purchase price, with an affidavit from GTE's director stating that the internal worksheet was prepared prior to bid opening and was used as the basis of the prices submitted in GTE's bid; and a letter explaining how GTE determines its bid prices.

The contracting officer forwarded GTE's request for bid correction, including the letters and internal pricing sheet, to VA headquarters in Washington, D.C., and requested an administrative determination whether bid correction could be permitted. The reviewing official determined that the error in the worksheet concerning maintenance could be corrected as a clerical error, and that there was sufficient evidence to show GTE's mistake and intended installation/purchase bid.

While reviewing GTE's bid, the official also noted that the true total of the line items on the worksheet pertaining to the telephone system was \$1,656,924.11, not \$1,586,584.91 as entered in the worksheet; as stated above, GTE had submitted a late modification to change the telephone system bid on the other submission--the Summary Form--to the higher figure. The official corrected this as a clerical error, and the VA awarded a contract to GTE. The contract price includes \$96,340.54 for maintenance and apparently reflects the balancing effect of increasing the telephone system total by \$70,339.20 and decreasing the installation/purchase

cost by the same amount. Performance has been withheld pending the outcome of this protest.

#### PROTEST AND DISCUSSION

UDN asserts that the VA improperly permitted GTE to correct the mistakes in its bid. UDN also argues that GTE's bid was nonresponsive because GTE did not use the attachments in the IFB and did not include its total costs on the Bid Proposal Summary Sheet. Finally, UDN requests reimbursement of the costs it incurred in pursuing this protest and in submitting its bid.

Under the Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.406-2 (1984), a contracting officer is authorized to correct a clerical mistake in a bid without further agency approval after the bidder verifies the intended bid. Tektronix, Inc., B-219981, Nov. 27, 1985, 85-2 C.P.D. ¶ 611. To be corrected as a clerical error, both the mistake and the intended bid must be apparent from the face of the bid. Id.

Here, while we agree with the VA that mistakes were apparent from the face of GTE's bid, we cannot agree that the intended bid was apparent. The VA assumed that the error in the worksheet maintenance item was in the extended total of \$315,967.50, rather than in the unit price of \$1,154, and that the error in the telephone system entry on the worksheet was in the stated total rather than in one of the numerous line items that comprised that total. The VA, however, does not assert that either the extended price for maintenance or the entered telephone system total was so out of line with the government estimate or with the other bids that the only reasonable explanation for the errors was in those totals. See DeRalco, Inc., B-205120, May 6, 1982, 82-1 C.P.D. ¶ 430. Indeed, we note that GTE's entered extended total for maintenance is much more consistent with UDN's extended total of \$350,633 than with the \$96,340.54 total to which the VA corrected the bid. While the VA's analysis provides one explanation for the errors, it is just as likely that the mistake in the maintenance entries was in the unit price and the mistake in the telephone system total was in one of the line items that comprised it. Under such circumstances, it was improper for the VA to correct either error as an apparent clerical error. See Broken Lance Enterprises, Inc., 57 Comp. Gen. 410 (1978), 78-1 C.P.D. ¶ 279.

Since those are not correctable as clerical errors, whether they, as well as whether the alleged mistakes

involving the installation/purchase costs, otherwise are correctable must be determined pursuant to FAR, 48 C.F.R. § 14.406-3(a). Under this provision, an agency may permit a bidder to correct mistakes in its bid if the bidder provides clear and convincing evidence of the existence of the mistake and the bid actually intended. The VA's decision to permit GTE to correct the errors in its bid is unreasonable in light of that requirement.

GTE did not submit any documentation to support its allegation that a mistake existed or its intended bid for maintenance. Thus, the only evidence that this mistake exists is in the bid itself. Since we have concluded that the bid did not establish GTE's intended bid in that respect, there is no basis on which correction of this mistake may be permitted. Concerning the telephone system total, although GTE's late modification attempting to increase a similar entry elsewhere in the bid might be viewed as evidence of the bid for the telephone system that the firm actually intended, see Schoutten Construction Co., B-215663, Sept. 18, 1984, 84-2 C.P.D. ¶ 318, we have no reason to believe that the original bid actually was mistaken in that regard and not rethought. The late modification simply does not establish GTE's intended bid by the clear and convincing evidence required to permit correction.

The VA contends that the correction of the installation/purchase total was proper because the internal pricing sheet and explanation submitted by GTE established by clear and convincing evidence that GTE intended to bid \$836,233.01 rather than \$906,572.21. We do not agree. First, there is no indication in GTE's bid that the total is in error. The total is the correct total of its eight components, and the VA does not assert that the total is out of line with the other bids. See Russell Drilling Co., 64 Comp. Gen. 698 (1985), 85-2 C.P.D. ¶ 87.

Second, although a bidder's worksheets may provide sufficient evidence to permit correction of a mistake in bid, if they show how the mistake occurred and the intended bid price, Tektronix Inc., B-219981, supra, the 21 line items on GTE's single contract pricing sheet do not, in most instances, correspond to the line items on the form submitted to the VA with GTE's bid, and there is no indication as to how the costs of the individual line items were calculated. See A&J Construction Co., Inc., B-213495, Apr. 18, 1984, 84-1 C.P.D. ¶ 443. Further, although GTE asserts that a secretary transferred the wrong numbers from the internal pricing sheet to the form submitted with GTE's bid, there is

no number on the internal pricing sheet close to the \$906,572.21 figure GTE entered in its bid for the total installation/purchase cost; while the secretary may have made a typographical error, this is not established by the evidence in the record. Consequently, the evidence submitted by GTE was not sufficient to permit GTE to correct its bid in this respect.

The VA and GTE also assert that UDN's protest should be denied because GTE's bid was low as corrected and uncorrected. In this regard, we have held that where it is clear that the intended bid would be low with or without correction, a bidder may be permitted to waive its mistake claim, see National Heat and Power Corp., B-212923, Jan. 27, 1984, 84-1 C.P.D. ¶ 125, or to correct its bid, see R&R Contracting, Inc., B-217412, Mar. 1, 1985, 85-1 C.P.D. ¶ 260, even where the intended bid cannot be determined exactly. We do not agree that the facts presented by the present protest clearly establish that GTE's bid would be low if corrected, however. The parties' assertion appears to presume that all the errors (the largest of which is the maintenance cost correction downward by \$219,626.96) are correctable, or none are. We note, however, that if only the error for the total cost of the phone system is corrected--an upward correction--so that the maintenance cost is counted as \$315,967.50 as entered, and the installation/purchase cost also is considered as entered, GTE's total bid price no longer would be low. Since it thus is not clear that GTE's corrected bid would remain low in every situation, GTE may not correct its bid or waive the alleged errors on this theory.

Because of the conclusion we have reached we need not consider UDN's allegation that GTE's bid was nonresponsive.

By separate letter to the Administrator of Veterans Affairs, we are recommending that the VA terminate, for the convenience of the government, the contract awarded to GTE and award the contract to UDN, if UDN is otherwise eligible to receive the award. Since we are recommending that the contract awarded to GTE be terminated and a contract be awarded to UDN, the protester is not entitled to protest or bid preparation costs. 4 C.F.R. § 21.6 (1986).

The protest is sustained.

*Milton J. Jordan*  
for Comptroller General  
of the United States