



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: American Restoration, Inc.

File: B-250796

Date: January 11, 1993

Benton J. Poole, Esq., for the protestor.
Gordon S. Creed, Esq., General Services Administration, for the agency.
Franklin D. Jackson, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly allowed correction of the mistake in bid by the low bidder where the existence of the mistake and the intended bid price were clearly established from the bidder's original bid preparation papers and the corrected bid remains significantly below the next low bid.

DECISION

American Restoration, Inc. (ARI) protests the contract award made to Frontier Waterproofing under invitation for bids (IFB) No. GS-07P-92-HUC-0088, issued by the General Services Administration (GSA) for exterior waterproofing of the Bob Casey Federal Building and the LaBranch Federal Building, both in Houston, Texas. ARI contends that Frontier's bid should have been rejected instead of corrected. We deny the protest.

The agency requested lump sum bids covering the two buildings. Of the bids received at bid opening on September 4, 1992, Frontier was low at \$191,677, and ARI was second low at \$293,000. On September 8, the contracting officer requested that Frontier verify its bid. On September 14, Frontier advised that it had made a bid mistake, in that it had omitted the cost of cleaning (by grinding) of joints before the installation of joint sealants in the Bob Casey Federal Building. On September 18, Frontier submitted its original worksheets, and requested a bid increase of \$60,512.

GSA reports that the contracting officer first examined Frontier's worksheet for the LaBranch Federal Building to see how Frontier had computed its bid. She found that it contained two handwritten entries for performing the joint sealant work: 1) cut out and recaulk the cast stone and the windows/perimeter; and 2) grind joints in the cast stone and

the windows/perimeter. Unit prices for entries 1 and 2 were \$.95 and \$.82, respectively. The worksheet also recorded the measured limestone distances for this process. Both entries were mathematically extended to the right where the tabular totals were entered, depicted on the worksheet as follows:

La Branch Building

Cut out & Recaulk - Cast Stone -	3908'	x	.95	-	\$3713
Grind jts	3908'	x	.82	-	\$3205

windows/perimeter	2443'	x .95	- \$2321
	2443'	x .82	- \$2003

When the contracting officer examined the worksheet for the Bob Casey Federal Building, she found similar dual entries for the cast stone work. However, the lower entry for the first set, while stating the same \$.82 unit price for the joint grinding work of the cast stone and the measured distance (limestone 58,403') for multiplication purposes, did not show any multiplied extension to the right tabular column; and the same mathematical omission was made concerning the joint grinding work for the perimeter of the windows. Consequently, the product was not recorded in the right tabular total column. The worksheet for Bob Casey was as follows:

Casey Building

Cut out & recaulk - Limestone	58,403'	x .95 - \$55,483
Grind jts - .82	58,403'	
Windows/perimeter	15,392'	x .95 - \$14,622

Based on a comparison of the two separate "yet parallel worksheets" the contracting officer concluded that Frontier had intended to include in its bid for the Bob Casey building amounts required for grinding out the joints in the limestone (58,403' x \$.82, or \$47,891) and in the perimeter of the windows (15,392' x \$.82, or \$12,621), or \$60,512. Correction of the bid was allowed, and Frontier received the award at a corrected bid price of \$252,189. This protest followed.

As provided in Federal Acquisition Regulation (FAR) § 14.406-3(a), an upward bid correction may be allowed when clear and convincing evidence establishes both the existence of an alleged mistake and the bid intended. P.K. Painting Co., B-247357, May 5, 1992, 92-1 CPD ¶ 424. Whether the evidence of a mistake and of the bid intended meets the clear and convincing standard is one of fact, and an agency's determination to allow or deny correction will not

be questioned unless it lacks a reasonable basis. Gunco, Inc., B-238910, July 17, 1990, 90-2 CPD ¶ 46.

The protester argues that Frontier's evidence of mistake does not meet the FAR standard for correction. It argues that Frontier's worksheet on the Bob Casey building does not show that Frontier intended to include any amount for grinding work. ARI also points out that the correction amounts to a significant increase in Frontier's original bid price. In ARI's view, the integrity of the competitive bidding system prohibits allowing bid correction to such an extent, particularly where a bidder submits its work papers two weeks after bid opening.

As an initial matter, we do not find any reason to question the correction of Frontier's bid because of the time spent submitting its work papers. As stated above, bid opening occurred on September 4. On September 8, the contracting officer asked Frontier to verify the bid price. On September 14, Frontier called the contracting officer to advise that it had made a mistake in the bid. The contracting officer then asked Frontier to confirm the mistake in writing, which it did by letter dated the same day, requesting correction by \$60,512. This letter, with its estimate sheet on the Bob Casey building, arrived September 16. On September 17, the contracting officer asked Frontier for all of its original work papers along with a statement that the documents were actual and prepared before bid opening. The next day, September 18, Frontier met this request.

Thus, Frontier submitted its workpapers and an affidavit attesting to the truth of its papers by 10 days after the contracting officer had asked Frontier to verify its bid. While ARI suggests that the time spent by Frontier in establishing its alleged mistake raises suspicion, we do not find any suspicious circumstances in these reported events. To the contrary, it appears to us that Frontier acted promptly once the contracting officer asked Frontier to verify its bid.

Moreover, contrary to the protester's assertion, there is no particular percentage or gross dollar amount beyond which a bid may not be corrected. The issue in such a case is whether the evidence is sufficiently clear and convincing to allow the requested correction to be made. International Service Corp., B-246159, Feb. 14, 1992, 92-1 CPD ¶ 191. There, we upheld an upward correction of \$155,996 to a corrected bid of \$399,332, based on the evidence submitted. Since the contracting officer in this case decided that Frontier's bid could be corrected, the question for us is

whether this determination was reasonably based. Gunco, Inc., B-238910, supra.

The protestor argues that the FAR standard for correction was not met here. ARI argues that, as far as one can tell from Frontier's worksheets, Frontier might have erroneously assumed that the work on the Bob Casey building did not require the grinding of joints. This could follow, the protestor asserts, from an assumption that the stone-to-stone joints were filled with caulk, instead of with mortar. ARI notes in this regard that the Bob Casey building is a high rise while the LaBranch building is two-story, thus possibly needing a different sealant process. ARI also argues that since the work contemplated by grinding at the perimeter of the windows is different from that required at a stone-to-stone joint, Frontier might not have intended to bid the same unit price for both types of grinding work.


We see no reason to object to the correction. As the agency notes, the IFB specifications clearly required grinding of joints in both buildings. Since Frontier's worksheet for the Bob Casey building contained the same .82 entry as shown on the LaBranch building worksheet, it is clear that Frontier intended to bid the sum of $$.82 \times 58,403'$, or \$47,891, as a separate entry below the "Cut-out & recaulk" entry on the Bob Casey worksheet. The fact that the .82 entry appears on the Bob Casey worksheet (as shown above) in a position different from other unit prices for other line item work listed on the work sheet is not significant in view of the specific entry of the .82 unit price next to the line item entry.

Although there is no similar entry on Frontier's Bob Casey worksheet for grinding of joints on the perimeter of the windows, we believe that the documentation establishes that Frontier intended to bid \$12,621 for this work. An examination of Frontier's worksheet on the LaBranch building shows that it intended to bid a unit price of \$.82 for grinding of window perimeters. The bidder's Bob Casey worksheet shows that frontier intended to bid the same unit price for grinding out the joints in the stone on both buildings. We note that the agency's own in-house cost estimate for this segment of the work was also broken down into the same two entries, with the same unit prices for both buildings, and that its unit prices were in line with the unit prices used by Frontier. As GSA states, the grinding work is virtually the same for both buildings; only the measured distances are different. Under these circumstances, the absence of any entry on the worksheet for joint grinding of the window perimeters is logically due to a mistake on the part of the bidder, and the intended bid is readily ascertainable as $$.82 \times 15,392'$, or \$12,621, based

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on Frontier's pattern of bidding for this item of work as shown on its worksheets. Finally, we note that Frontier's corrected bid of \$252,189 remains significantly below the next low bid of \$293,000. See P.K. Painting Company, supra.

Accordingly, correction was proper, and the protest is denied.

for 
James F. Hinchman
General Counsel