



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-214660

May 25, 1984

The Honorable Lloyd Bentsen  
United States Senator  
912 Federal Building  
Austin, Texas 78701

Dear Senator Bentsen:

You recently forwarded a letter, dated March 6, 1984, from [redacted], President of Skyeagle, Inc. describing his recent experience with a Corps of Engineers procurement of construction services under which the low bidder, Four F Corporation, was allowed to increase its bid price by \$402,500 after bid opening.

Mr. [redacted] recognizes that this increase in Four F's bid price resulted from the correction of a mistake in its bid under applicable federal procurement procedures, but argues that the procedures themselves are defective.

Mr. [redacted] states that normal construction industry practices would require the low bidder to either accept the work at its price bid or forfeit its bid bond.

Mr. [redacted] believes that the federal procedures permitting bid correction are open to possible abuse and misuse because unscrupulous bidders can easily fabricate documents to substantiate a mistake in bid.

While it is apparent that the federal mistake in bid procedures only recently came to Mr. [redacted] attention, they have been in effect for many decades without, to my knowledge, evidence of widespread abuse by unscrupulous bidders. We nevertheless recognize the possibility of abuse exists. In this connection, federal bid correction procedures have a number of safeguards intended to avoid, or at least minimize, abuses. Specifically, the procuring agencies may exercise their authority to permit correction only where the bidder has presented "clear and convincing evidence" establishing both the existence of the mistake and the bid actually intended. Moreover, the closer an asserted intended bid is to the next low bid, the greater the degree of proof required, and, for that reason, correction is often disallowed when the corrected bid would come too close to the next low bid.

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In addition, the present policy has positive benefits both for bidders and the government. For the bidder, automatic elimination of its bid from consideration can be viewed as unduly harsh where there is adequate evidence to support correction. For the government, correction can result in significant savings, particularly where there is a wide disparity between the corrected low bid and the next bid. Similarly, when the mistake is apparent on the face of the bid, correction can result in downward revision of a higher bid, again at a savings to the government.

Given these considerations and recognizing that the present procedure permitting correction has apparently well served its intended purpose, I see no compelling reason to recommend change at this time. Of course, the executive agencies that are actually engaged in construction contracting have the most complete and current information on this question, and if they were to report the existence of widespread abuses we would reconsider our view. However, the information we have to date suggests that the federal procedures for correcting bid mistakes are functioning properly.

Sincerely yours,

*Harry R. Van Cleve*

Harry R. Van Cleve  
Acting General Counsel

*Micrographics*