



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

B-177231

JAN 23 1973

Mr. Chester Kropp
ABC Equipment
Route 9, Box 21
Fayetteville, North Carolina 28306

Dear Mr. Kropp:

Reference is made to your letter of October 5, 1972, requesting that you be relieved from performing contract 25-3021-201 for item 242 of auction sale 25-3021 awarded by the Norfolk Defense Surplus Sales Office.

You contend that the public address system was so loud and distorted that you were confused and deceived into bidding on the wrong item. You also contend that once the mistake was brought to the attention of the contracting officer after the item was awarded, the item should have been reoffered for sale.

Once an award has been made, a contractor is bound by its unilateral mistake unless the contracting officer knew or should have known of the mistake prior to award. B-156617, July 28, 1965. A tape recording of the sale indicates that item 242 was clearly announced and described. Thus, contrary to your contention, there was not any deception in the sale regarding the item. Further, the bidding proceeded in a normal manner and you, registered as bidder No. 201, participated in the bidding at various stages of the auction for item 242. As article DA(3) of the invitation for bids provided that the auctioneer's "knocking down" an item constituted an award of the item and as the contracting officer was not advised of an error until after the award and had no reason to suspect the possibility of an error prior to award, a valid and binding contract is deemed to have resulted from the award.

In the circumstances, our Office concurs with the administrative determination denying rescission of the contract. Accordingly, your claim for relief is denied.

Very truly yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States