

DECISION



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

50942

FILE: B-184483

DATE: September 16, 1975

MATTER OF: Smith-Edwards-Dunlap Company

97524

DIGEST:

Contractor alleging mistake in bid after award is not entitled to price increase where contracting officer had no actual or constructive notice of mistake prior to award. Test as to significance of variances among bids in determining constructive notice of error is one of reasonableness. Variation of 5.6 percent between low and next low bid is not sufficient by itself to constitute constructive notice where broad range of bids are received.

Smith-Edwards-Dunlap Company (SED) alleges that it made a mistake in its bid on United States Government Printing Office (GPO) Jacket 574-447 covering the production of 300,006 copies of a one-page poster-type form for the Department of Labor, entitled "WHAT A FEDERAL EMPLOYEE SHOULD DO WHEN INJURED AT WORK."

The nine bids received on the GPO Jacket were as follows:

1. SED	\$2,169.00
2. Zabel Bros. Co., Inc.	2,291.00
3. Vitro Laboratories Div.	2,709.00
4. Compton Press, Inc.	2,938.31
5. The Wessel Co., Inc.	2,965.00
6. Ace Service Corp.	3,027.00
7. Hiney Printing Company	3,058.00
8. Tidewater Pub. Corp.	3,093.06
9. Lithography Service Corp.	3,220.00

Award was made to SED on May 19, 1975, and deliveries were completed on June 16, 1975. SED alleges that a mistake occurred in its bid because it inadvertently estimated the paper stock needed at one-half the actual amount. SED states that it discovered the mistake while reviewing its papers for billing purposes.

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In cases where a mistake has been alleged after award of the contract, our Office will grant relief only if the mistake was mutual or the contracting officer was on actual or constructive notice of the error prior to award. 45 Comp. Gen. 700, 706 (1966). In this case, the mistake on the part of SED was unilateral and there was no actual notice of mistake prior to award.

The difference between the SED bid and the next low bid was only \$122 or about 5.6 percent. There is no absolute test as to the significance of variances among bids in determining constructive notice of error but rather a test of reasonableness is employed. In this case, nine bids were submitted ranging from \$2,169 to \$3,220. Where there exists such a broad range of bids, we do not believe that the 5.6 percent variance between the low and next low bid without anything more is sufficient to constitute constructive notice of error. See Sundance Construction, Inc., B-182485, February 28, 1975, 75-1 CPD 123.

Accordingly, there is no legal basis for our Office to grant any relief to SED.


Deputy Comptroller General
of the United States