

DECISION



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

10,753

FILE: B-195258

DATE: July 13, 1979

MATTER OF: Hanagriffs Machine Shop, Inc. *AGC 02127*

DIGEST: *[Request for Rescission of Contract]*

Where high bid was 5-1/4 times second high bid, which was closely aligned with next highest bids, and where high bid exceeded item's acquisition price by 183 percent, contracting officer was on constructive notice of possible mistake and should have sought verification. In these circumstances, bidder who mistakenly bid on sale item may have contract rescinded.

AGC 378

The Defense Logistics Agency has requested the rescission of the contract awarded to Hanagriffs Machine Shop, Inc. (Hanagriffs) under sale No. 31-9086 issued by the Defense Property Disposal Service, Memphis, Tennessee

AGC 01434

Hanagriffs submitted the high bid of \$13,752 for sale item 124 and award was subsequently made to it. Upon receipt of notice of award, Hanagriffs alleged that it intended to bid on item 123 rather than item 124.

The Defense Logistics Agency recommends that the contract be rescinded since the contracting officer was on constructive notice of possible error in bid and should have requested verification prior to award. We agree.

The general principle applicable to this case is that a purchaser's unilateral mistake in bid will not excuse it from a contract subsequently awarded unless the contracting officer knew or should have known of the mistake. Corbin on Contracts § 610; Wender Presses, Inc. v. United States, 343 F.2d 961 (Ct. Cl. 1965); Saligman v. United States, 56 F. Supp. 505 (E.D. Penn. 1944); J.B.L. Construction Co., Inc., B-191011, April 18, 1978, 78-1 CPD 301. There is no evidence in the present record to indicate

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that the contracting officer had actual knowledge of error. As to when the contracting officer should be charged with constructive notice of error, the test is one of reasonableness; whether under the facts of the case there were any factors which should have raised the possibility of error in the mind of the contracting officer. See Morton Salt Company--Error in Bid, B-188392, April 19, 1977, 77-1 CPD 273. The possibility of error must be sufficient to reasonably require the contracting official to make an inquiry which would lead to the requisite knowledge. See Wender Presses, Inc. v. United States, supra.

In the instant case, Hanagriff's bid of \$13,752 was 5.29 times higher than the next highest bid of \$2,600. The third, fourth and fifth highest bids were \$1,586, \$1,550 and \$1,414, respectively. A grouping of bids below a disproportionately high bid may suggest that a mistake has been made. George Condodemetraky, B-188105, March 10, 1977, 77-1 CPD 182. Here, the close alignment of the second through fifth highest bids exaggerated the disparity between the two highest bids. When added to the fact that Hanagriff's bid exceeded the acquisition price of the item by 183 percent, we believe that the contracting officer was on notice of a possible mistake and should have requested verification. Air and Power Tools Company/A and P Industrial Rentals, B-182996, February 4, 1975, 75-1 CPD 81.

Accordingly, Sales Contract No. 31-9086-224 may be rescinded as administratively recommended.


Deputy Comptroller General
of the United States