

Pl-1
Request

12490

DECISION



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

FILE: B-196726

DATE: January 9, 1980

MATTER OF: Prince Construction Company

CNG 00839-

DIGEST:

Where contracting officer advised low bidder of possibility of error in bid due to substantial difference between its bid and next low responsive bid, acceptance of verified bid resulted in valid and binding contract. Therefore, no legal basis exists to reform or rescind contract based on subsequent claim by contractor of unilateral error in bid.

AGC0006

The Veterans Administration (VA) has forwarded for our consideration a [claim of mistake in bid] submitted by Prince Construction Company (Prince) after the award to that firm of a contract for the installation of an automatic sprinkler system and the removal of old doors and replacing them with fire rated doors.

On August 10, 1979, the VA issued an invitation for bids (IFB) for project No. 517-012. The IFB stated:

"ITEM I PROVIDE ALL LABOR, SUPPLIES, MATERIALS AND EQUIPMENT NECESSARY TO INSTALL AN AUTOMATIC SPRINKLER SYSTEM:

"ALTERNATE NO. 1: All Work As Indicated In Bid Item No. 1 Plus Removal And Replacement Of Doors As Indicated On Drawing As Alternate No. 1.

"NOTE: It Is Anticipated That Award Will Be Made On Bid Item No. 1; However, In The Event Offers Do Not Exceed

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Funds Available, Award Will Be
Made On Alternate No. 1. Bidders
Are To Give Price On Both Bid Items.

Bids were opened September 14, 1979, and three bids were received as follows:

	<u>Item 1</u>	<u>Alternate No. 1</u>
Prince Construction Co.	\$425,000	\$492,000
← Brewer and Co. of W. Va., Inc.	\$446,654	\$561,504
← M.C. Dean Electric	\$719,400	\$ 68,900*

*Bid on Alternate No. 1 was withdrawn after contracting officer advised Dean of apparent mistake in Alternate 1A.

The contracting officer requested Prince to verify its bid price in view of what she considered to be a significant (9 percent) difference between its bid and the second low bid received. A representative of Prince orally verified that its bid price was correct as submitted. On September 24, 1979, an award was made to Prince.

Prince orally notified the contracting officer on October 1, 1979, that a mistake had been made in developing Prince's bid for Alternate No. 1. The firm submitted its worksheets and the president of Prince contends that its mistake resulted from his insertion of the unit labor hours for removing 27 existing stairway doors and for installing 27 new stairway doors rather than the extended total labor hours for the work. Prince requests that it be permitted to correct the mistake which it contends involves \$14,040 in costs, plus 10-percent markup, plus 1-percent bond, for a total of \$15,584. Alternatively, Prince requests that it be relieved of the obligation of performing Alternate No. 1 and that the contract be modified accordingly. The VA does not recommend the allowance of the claim since Prince verified its bid as being correct.

The Federal Procurement Regulations (FPR)
§ 1-2.406-1 (1964 ed.) provides:

"In cases of apparent mistakes and in cases where the contracting officer has reason to believe that a mistake may have been made, he shall request from the bidder a verification of the bid, calling attention to the suspected mistake."

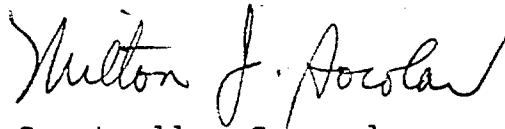
The contracting officer requested Prince to verify its bid in view of what she considered to be a significant difference between its bid and that of Brewer. It was not until after Prince verified its bid price that an award was made to the firm. We have held that where the only basis for suspecting a mistake is the discrepancy between the low bid and other bids received, the request for verification is sufficient if this discrepancy is brought to the attention of the bidder. Galion Manufacturing Division, Dresser Industries, Inc., B-193335, June 19, 1979, 79-1 CPD 436, and cases cited therein.

→ The general rule applicable to a mistake in bid alleged after award is that the sole responsibility for the preparation of a bid rests with the bidder, and where a bidder makes a mistake in bid it must bear the consequences of its mistake unless the mistake is mutual or the contracting officer was on actual or constructive notice of an error prior to award. A contracting officer who is on notice of a possible mistake in bid is under a duty to apprise the bidder of the suspected mistake and the basis for such suspicion and to request the bidder to verify its bid. When a bidder who is so requested does verify its bid, the subsequent acceptance of the bid by the contracting officer creates a valid and binding contract. See Department of the Interior, B-194380, April 17, 1979, 79-1 CPD 271; Cabarrus Construction Company, Inc., B-192710, September 13, 1978, 78-2 CPD 200.

✱ In the instant case, the low bidder was advised that there was a substantial difference between its bid price and the second low bid. Nevertheless, it

verified its price as being correct, and the contracting officer in reliance on this verification made an award. In view of these facts, we believe the contract is valid and binding as awarded. Therefore, it is not necessary to consider evidence presented to show the nature of the mistake or the intended bid.

For the foregoing reasons, there ~~is~~ no legal basis for granting the relief requested.



For the Comptroller General
of the United States