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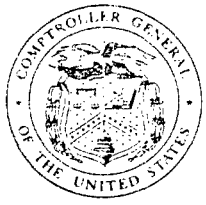
DECISION



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

FILE: B-201352 DATE: April 8, 1981

MATTER OF: H. Martin Construction Company
[Protest Against Bid Rejection]

DIGEST:

Agency properly rejected bid where price was so low as to be clearly mistaken under circumstances and it was not clear whether bid would have been low absent mistake.

H. Martin Construction Company protests the Corps of Engineers' rejection of its bid under invitation for bids No. DACA45-80-B-0173. Although H. Martin was the lowest bidder, the Corps determined that its bid contained a mistake and that the bid as corrected would not be low. However, the protester maintains that it never alleged a mistake. We deny the protest because H. Martin's bid contained a clearly mistaken price and it is not clear that the bid would have been low absent the mistake.

The IFB included one basic item -- the construction of a Defense Property Disposal Office -- and two additive items -- furnishing area lighting and a remote data gathering panel (to be installed in an existing building) to monitor the building's heating and air conditioning systems. Award was to be made to one bidder only.

The Corps received three responsive bids as follows:

	Basic	Additive 1	Additive 2	Total
H. Martin	$398,000	$25,000	$ 2,000	$425,000
Curtiss-Manes Const. Co., Inc.	393,455	13,892	37,950	445,297
Brunson Const. Corp.	454,800	19,000	32,000	505,800

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H. Martin had originally bid $15,000 for the second additive item but modified its bid by a telegram deducting $13,000 from that amount. The Corps states that shortly after bids were opened it received a phone call from a person who identified himself as an H. Martin employee and stated that the telegram should have added, not deducted, $13,000 for the second additive. However, after being informed of the price discrepancy, H. Martin verified its bid in writing and now denies ever alleging a mistake.

Based on the alleged phone conversation and other factors indicating that $2,000 was not a reasonable price for the additive, the Corps determined H. Martin's bid to be mistaken. Since adding $13,000 to H. Martin's original price of $15,000 for the second additive would have rendered its bid no longer low, the Corps rejected the bid and made an award to Curtiss-Manes.

Regardless of whether an H. Martin representative ever admitted the existence of a mistake, the Corps properly determined that H. Martin's bid was mistaken since the price for the second additive was clearly unreasonable under the circumstances. See 51 Comp. Gen. 498 (1972). The price was much less than the other prices offered, and was $27,600 less than the Government estimate of $29,600. Moreover, the remote data gathering panel was required to be compatible with an Energy Monitoring and Control System manufactured by Johnson Controls Inc. and already installed in another building; the Corps reports that Johnson Controls was the only firm to supply bidders with quotes for the additive item and that its quotes ranged between $20,000 and $25,000. In light of these circumstances and in the absence of convincing evidence that the bid as submitted was as originally intended, H. Martin's bid must be considered mistaken. See 51 Comp. Gen., supra; Defense Acquisition Regulation § 2-406. 3(e)(2) (1976 ed.).

The general rule with regard to such a bid is that the contracting officer must reject it even if the bidder denies making a mistake, unless the bid is correctable or it is clear that the bid would have been low absent the mistake (even though the amount of the intended bid cannot be proven). Hanauer Machine Works, B-196369, March 6, 1980, 80-1 CPD 178.

Since it is not clear that H. Martin's bid would have been low absent the mistake, the Corps properly rejected the bid.

The protest is denied.

Milton J. Socolar

Acting Comptroller General
of the United States