



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

092214

B-177926

April 19, 1973

30835

The Honorable Earl L. Butz
Secretary of Agriculture

Dear Mr. Secretary:

Reference is made to a letter dated January 29, 1973, from the Director, Office of Plant and Operations, requesting a decision whether relief may be granted to provide additional compensation of \$4,779.58 to Biehler Sales, Inc., for an error in bid alleged after award of contract 12-14-100-11467(52). DLG 06092
DLG 06409

The invitation for bids upon which the contract is based invited offers to perform construction and alteration work at the U.S. Grain Marketing Research Center, Manhattan, Kansas. The bid schedule provided for three basic bid items plus a combination bid. Biehler submitted an offer only on Basic Bid Item 3, Job #116, in the amount of \$22,485.75. The work for Job #116 was set forth on sheets 4, 5, 6, and 10 of the contract drawings. The other offers received for Basic Bid Item 3 were \$29,566, \$32,800 and \$44,300. The Government estimate was \$20,000. Since no combination bid was less than the total of the individual basic bid prices and the Biehler bid was low on Basic Bid Item 3, it was awarded a contract for that item. Subsequently, Biehler advised the contracting officer that it had made a mistake in its bid by not bidding on the work in Job #116 set forth in sheets 4 and 10 of the contract drawings. DLG 03942

Where a mistake in bid is alleged after award of a 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. 48 Comp. Gen. 672 (1959); 37 id. 685 (1958); 17 id. 575 (1938).

The responsibility for the preparation of the bid submitted in response to the invitation was upon the bidder. While it is true that sheet 4 of the drawings, which covers a phase of Job #116, was not listed in the index of drawings for Job #116, Biehler states that it did not rely on, or even see, the index.

[Propriety of Providing Additional Compensation for Error in Bid Alleged After Contract Award]

1

715-8560

BEST DOCUMENT AVAILABLE

B-177926

Furthermore, it admits that the drawings contained all of the information necessary to submit a complete bid.

Although an error may have been made in the bid, it is clear that the error was attributable to the bidder's own oversight or negligence and was in no way induced or contributed to by the Government. Any error that was made in the bid was unilateral, not mutual, and therefore does not entitle Biehler to relief.

The record further establishes that there was no error apparent on the face of Biehler's bid at the time of the opening. Inasmuch as the Government's estimate for the work for Job #116 was \$20,000, \$2,485.75 less than Biehler's bid, we cannot say that the contracting officer should have been on notice of the likelihood of an error, notwithstanding the 31-percent difference between Biehler's bid and the second low bid. The acceptance of Biehler's bid, in these circumstances, consummated a valid and binding contract which fixed the rights and liabilities of the parties thereunder. 45 Comp. Gen. 700 (1966).

Accordingly, no legal basis exists for increasing the consideration under the contract.

Sincerely yours,

PAUL G. REMBLING

For the Comptroller General
of the United States

BEST DOCUMENT AVAILABLE