

## WHEN CORRECTION OF A BID WILL BE PERMITTED

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Even where correction of a bid that results in displacement of a lower bid, it will be permitted where the existence of the mistake and the intended bid is ascertainable from the information contained in the solicitation and the bid itself. FAR 14.407-3(a).

In a procurement for the renovation of a building in Vermont, the Invitation for Bids (“IFB”) described the required renovations in eight contract line item numbers (“CLINs”). *Wright & Morrissey*, B-417105, Feb. 15, 2019. At bid opening, the agency noted the apparent lowest price was from Wright & Morrissey (\$5,172,000) and the apparent next lowest was from Stewart (\$5,220,950). Upon opening the bid, the contracting officer noted that it contained handwritten notations. Because of these notations, the contracting officer requested that Stewart verify its bid, and later gave Stewart an opportunity to either withdraw or modify its bid.

Stewart requested the agency’s permission to correct a mistake in its bid by reducing its price on the first CLIN by \$54,700. Stewart’s President explained that the firm had mistakenly included the bid price for CLINs 0002 and 0003 in its bid price for CLIN 0001. Because the IFB identified a list of optional requirements, CLINs 0004 through 0008, Stewart assumed its bid amount for CLIN 0001 should include the bid amount for CLIN 0002 and 0003 which were not listed as optional. Consistent with that assumption, Stewart stated that it had included a handwritten notation on its bid under CLINs 0002 and 0003 that the bid price for both CLINs were “included in our Base Bid; we assume this is a breakout.”

Once the bid price for CLINs 0002 and 0003 were subtracted from Stewart’s price for CLIN 0001, Stewart’s total price for all CLINs was \$5,166,250, not \$5,220,950, and Stewart became the low bidder. Wright & Morrissey had bid \$5,172,000.

In considering the protest against this correction, the Government Accountability Office (“GAO”) noted that in order to protect the integrity of the procurement process, a bidder’s request for correct of its bid after bid opening but prior to award may be granted where clear and convincing evidence establishes both the existence of the mistake and the bid actually intended. FAR 14.407-3(a). If the correction of the bid would result in displacement of one or more lower bids, the correction shall not be made unless the existence of the mistake and the bid actually intended are ascertainable from the IFB and the bid itself.

GAO denied the protest, noting that the agency reasonably concluded that Stewart’s bid itself clearly and convincingly established both the existence of the mistake and the bid actually intended. The contracting officer reasonably understood Stewart’s handwritten notation that Stewart had assumed that CLINs 0002 and 0003 were breakout costs of CLIN 0001, and that Stewart had double-counted these costs. The agency properly permitted the double counting to be removed.

Takeaway: Only under the special bid circumstances described above will an offeror be allowed to correct a mistake in bid. Note that Stewart knew, when he requested the correction in his bid, that it would make his bid lowest, but the special circumstances warranted the correction.

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