

**§ 101-45.805**

**41 CFR Ch. 101 (7-1-02 Edition)**

(e) Each proposed determination shall be approved by the agency's General Counsel, Deputy or Associate General Counsel, an Assistant General Counsel, or other comparable legal officer.

(f) Mistakes disclosed after award shall be processed as follows:

(1) Whenever a mistake in bid is alleged or disclosed after award, the sales contracting officer shall advise the purchaser to support the alleged error by written statements and by all pertinent evidence, such as the purchaser's file copy of the bid, his original worksheets and other data used in preparing the bid, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.

(2) Where the purchaser furnishes evidence in support of an alleged mistake, the case shall be referred to the appropriate authority together with the following data:

(i) All evidence furnished by the purchaser.

(ii) A copy of the contract, including a copy of the bid.

(iii) An abstract or record of the bids received.

(iv) A written statement by the sales contracting officer setting forth—

(a) Specific information as to how and when the mistake was alleged or disclosed;

(b) A summary of the evidence submitted by the purchaser;

(c) His opinion whether a bona fide mistake was made in the bid and whether he was, or should have been, on constructive notice of the mistake before the award, together with the reasons or data upon which his opinion is based;

(d) Most recent contract price for a like item(s) involved, when sold, in what quantity, relative condition, etc.;

(e) Any additional evidence considered pertinent, including copies of all relevant correspondence between the sales contracting officer and the purchaser concerning the alleged mistake;

(f) The course of action with respect to the alleged mistake that the sales contracting officer considers proper on the basis of the evidence; and

(g) The status of performance and payments under the contract, includ-

ing contemplated performance and payments.

(g) Nothing contained in this §101-45.804 shall deprive the Comptroller General of his statutory right to question the correctness of any administrative determination made hereunder nor deprive any purchaser of his right to have the matter determined by the Comptroller General should he so request.

(h) Each agency shall maintain records of all administrative determinations made in accordance with this §101-45.804, the facts involved, and the action taken in each case. A copy of the determination shall be attached to each copy of any contract rescission or reformation resulting therefrom.

(i) Where administrative determination is precluded by the limitations set forth in this section, the matter will be submitted to the Comptroller General for decision in accordance with agency procedures.

(j) Nothing contained in this §101-45.804 prevents an agency from submitting doubtful cases to the Comptroller General.

[32 FR 16270, Nov. 29, 1967, as amended at 40 FR 59439, Dec. 24, 1975]

**§ 101-45.805 Mistakes disclosed after award in negotiated sales.**

When a mistake in a purchaser's quotation is not discovered until after award, the authority to correct mistakes contained in this subpart 101-45.8 may be utilized in accordance with the limitations and procedures set forth herein.

[35 FR 12121, July 29, 1970]

**Subpart 101-45.9—Abandonment or Destruction of Personal Property**

SOURCE: 65 FR 63549, Oct. 24, 2000, unless otherwise noted.

**§ 101-45.900 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).**

For information on the abandonment or destruction of personal property previously contained in this subpart, see 41 CFR part 102-36 (§§ 102-36.305 through 102-36.330).