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DECISION

J. N. Stojanovic
Proc. #
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-187843

DATE: January 23, 1977

MATTER OF: Building Maintenance Corporation

DIGEST:

Where solicitation envisions 13-month performance period with Government option to renew for up to five years, bid bonds in sum sufficient to cover contemplate 13-month contract but not all option periods are adequate in amount since exercise of option is contingent.

Building Maintenance Corporation, the third low responsive bidder under invitation for bids (IFB) No. 7025 issued by the Seventh Coast Guard District for janitorial services at the U.S. Coast Guard Air Station, St. Petersburg/Clearwater, Clearwater, Florida, protests any award to either the low or second low bidders on the grounds that the bids are nonresponsive because they were not accompanied by an adequate bid bond.

The protester alleges that while the penal sums of the bid bonds furnished by those two bidders were sufficient to cover a one-year period, they were nevertheless inadequate for the five-year period which could result from the exercise of renewal options provided for in the solicitation. (The two low bidders expressed their penal sums in terms of 20 per cent not to exceed a specified number of dollars while the protester offered a penal amount of 20 per cent without a dollar limitation.) The protester accordingly contends that should the Government exercise its option to extend for a five-year period, the bonding companies of those other bidders "would not be obligated" for the entirety of that period, thereby rendering their bid bonds insufficient and requiring their bids to be rejected as nonresponsive.

The IFB specified a contract performance period of December 1, 1976 (or date of award if later) through December 31, 1977, subject to the Government's right to extend the contract in accordance with a renewal option clause which provided:

"The Government reserves the right, at its option, at any time during or upon completion of the period of this contract, to extend the life of same at prices, terms and conditions set forth therein, for a period of one year and upon completion of that year to extend the contract again for a period of one additional year and again for each successive year thereafter.

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Total renewal time not to exceed five years, with the concurrence of the contractor; non-concurrence in renewal by the contractor shall be furnished within five (5) days after date of receipt of notice of renewal from the Government."

It is clear that what was intended was not the award of a five-year contract, but the award of a contract for a period expiring December 31, 1977, with a renewal option for periods beyond the term of the original award. Moreover, the Coast Guard advises that because such services are to be funded by operating expense appropriations limited in obligation to the year in which appropriated, the award will be made only for the period remaining in fiscal year 1977 (through September 30, 1977). The option provision merely provides the Government with a right of election, apparently subject to the contractor's right of non-concurrence, to extend the contract period; the extension, of course, is contingent. See 41 Comp. Gen. 758, 760 (1962). In the circumstances we believe the adequacy of a bid bond should be determined on the basis of the price for basic items upon which bids are evaluated, without regard to optional quantities.

Accordingly, we concur with the Coast Guard's position that the bids bonds at issue were sufficient and that the bids in question were responsive. The protest therefore is denied.

R. F. K. 1/14
Deputy Comptroller General
of the United States