

**DECISION**



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

13906

FILE: B-197942.2

DATE: June 4, 1980

MATTER OF: Wilson & Hayes, Inc.--  
request for reconsideration

DLG04114

ACR 0003

**DIGEST:**

Decision is affirmed where request for reconsideration fails to demonstrate any error of law or information not previously considered.

Wilson & Hayes, Inc. requests that we reconsider our decision in Wilson & Hayes, Inc., B-197942, May 9, 1980, 80-1 CPD \_\_\_, in which we denied the firm's protest against the rejection of its "letter bid" as nonresponsive under invitation for bids N00104-79-B-1124, a small business set-aside issued by the Navy Ships Parts Control Center for 89 flat top desks. The bid had been rejected because it failed to state that it was subject to all the terms and conditions of the invitation.

We held that while a letter bid need not explicitly state a bidder's acceptance of an invitation's terms and conditions, it cannot be accepted if it omits material information which must be submitted with a bid. We stated:

" \* \* \* For example, on this total small business set-aside bidders were required to represent that the items to be furnished would be manufactured by a domestic small business concern, but no representation to that effect was made in Wilson & Hayes' letter bid. We have held that such an omission from a letter bid alone necessitates its rejection as non-responsive."

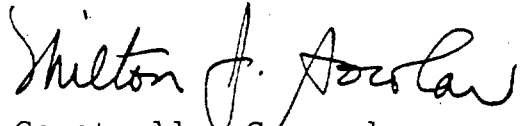
Wilson & Hayes now argues that the inclusion in the letter bid of the words "small business," a factor specifically recognized in our decision, should have been sufficient to establish that the desks to be supplied would be manufactured by a domestic small business concern.

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However, while the notation "small business" in a letter bid may reflect that the bidder itself is a small business concern, as indicated in our May 9 decision it cannot be considered an unequivocal offer to supply an item in accordance with the subject requirement. UWD Manufacturing Incorporated, B-195712, November 29, 1979, 79-2 CPD 380; B-152294, August 27, 1963. The result is that the bidder in effect is able to control the letter bid's responsiveness after bid opening depending on the source of supply then named, a situation clearly impermissible under the competitive bidding statutes and regulations. 50 Comp. Gen. 137, 140 (1970); B-152294, supra.

Since the request for reconsideration fails to demonstrate any error of fact or law in our prior decision, the decision is affirmed. 4 C.F.R. § 20.9(a) (1980).



For the Comptroller General  
of the United States