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**DECISION**



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

FILE: B-205962, B-205962.2,  
B-205962,3 DATE: May 18, 1982

MATTER OF: American Truss & Mfg. Corp.,  
Dillin's Wood Products, Inc.

**DIGEST:**

1. Agency properly rejected a bid offering a 30-day acceptance period where the IFB requested a 60-day acceptance period, another bidder offered such a period, and more than 30 days transpired after bid opening without award.
2. Where a firm is substantially owned or controlled by a Government employee, the procurement regulations preclude an agency from entering into a contract with the firm except for the most compelling reason, such as where the agency's needs could not be met otherwise.

American Truss & Mfg. Corp., the low bidder under invitation for bids (IFB) No. DAAA09-82-B-7200 for wood pallets, protests the Army's refusal to award it a contract after the expiration of the 30-day bid acceptance period offered by American. Although the contracting officer requested American to extend its acceptance period, the contracting officer subsequently determined that since the IFB requested a 60-day period, it would be unfair to other bidders that offered such a period if American were permitted to extend its 30-day period. We agree, and deny American's protest.

Dillin's Wood Products, Inc., the third low bidder, protests the Army's cancellation of the IFB after the Army determined that the second low bidder also was ineligible for award for the same reason that American

was ineligible, and that Dillin's Wood's bid was unreasonably priced. We deny this protest because the record shows that Dillin's Wood could not be awarded the contract in any case.

The first page of the IFB included the following standard bid acceptance clause:

"[T]he undersigned agrees, if this offer is accepted within \_\_\_\_\_ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers \* \* \*, to furnish any or all items \* \* \* in the schedule."

American and the second low bidder entered a 30-day period, whereas Dillin's Wood offered a 60-day period. After bid opening, the Army immediately requested that American and the second low bidder extend their bids an additional 30 days, which they did. Then, after American's initial acceptance period had expired, the Army proposed to make award to American. The contracting officer subsequently decided that neither of the two low bids could be accepted based on a recent decision by this Office concerning bid acceptance periods. See Ramal Industries, Inc., B-202961, August 25, 1981, 60 Comp. Gen. \_\_\_\_\_, 81-2 CPD 177, aff'd. B-202961.2, 202961.3, November 12, 1981, 81-2 CPD 400.

Although the standard acceptance-period clause does not establish a minimum acceptable bid acceptance period, we view it as essentially a request for a 60-day acceptance period. We held in the cited decision, therefore, that a bidder offering less than the requested period cannot be allowed to extend that period either before or after its expiration where other bidders offered the longer acceptance period. See also Professional Materials Handling Co., Inc., B-205969, April 2, 1982, 82-1 CPD \_\_\_\_\_. The reason for this rule is that the bidder offering a shorter acceptance period than requested has not assumed

as great a risk of price or market fluctuations as have the bidders that offered the requested acceptance period. Thus, allowing the bidder to decide, subject to its own particular interest, whether it desires to extend the bid or let it expire would be prejudicial to the bidders who offered the requested acceptance period and who therefore are bound by their bid prices for the entire period, Id. The rule applies with equal force to situations where the contracting officer expressly requests the extension, since the risk of prejudice to other bidders is just as great. Introl Corporation, B-206012, February 24, 1982, 82-1 CPD 164.

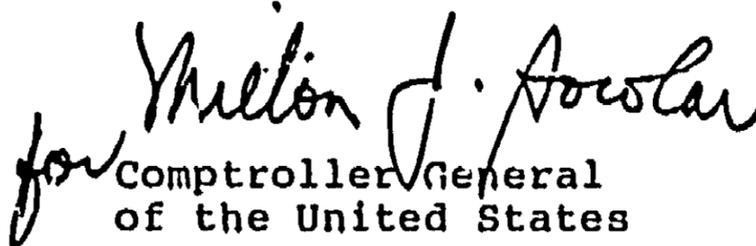
American contends that it always has been told it may extend a shorter-than-requested acceptance period. While this may have been permitted by some agencies, we have now held, in the cases cited above, that as a general rule such extensions may not be allowed. Consequently, the prior advice is of no consequence, and cannot estop the Government from properly rejecting American's bid in this case. See A. D. Roe Company, Inc., 54 Comp. Gen. 271 (1974), 74-2 CPD 194.

We therefore conclude that the agency properly refused to consider American's bid for award after the expiration of its 30-day bid acceptance period.

We need not address whether Dillin's Wood's bid price was unreasonable because we find that no award could have been made to Dillin's Wood in any event. The Army reports that a Government employee owns 50 percent of the firm's stock, the employee is the secretary/treasurer, and his wife owns the remaining stock and is president of the firm. Federal Procurement Regulations § 1-302.6 (1964 ed.) states that no agency knowingly shall enter into a contract with employees of the Government or a business organization that is substantially owned or controlled by Government employees except for the most compelling reasons, such as where the needs of the Government cannot be met otherwise. See Valiant Security Agency, B-205087,

October 29, 1981, 81-2 CPD 367. This regulation reflects the long-standing view that such contracts are undesirable because, among other reasons, they invite criticism as to alleged favoritism and possible fraud and therefore should be authorized only in exceptional cases, Burgos & Associates, Inc., 59 Comp. Gen. 273 (1980), 80-1 CPD 155. It is clear from the record that Dillin's Wood is not the only firm that can meet the Army's need for wood pallets. We therefore believe that its bid properly was rejected, without regard to the bid price.

The protests are denied.

*for*   
Comptroller General  
of the United States