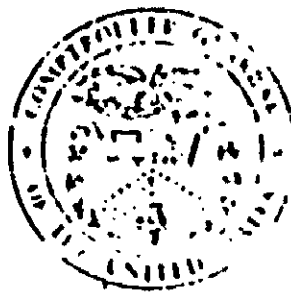


DECISION



094769

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

40981

FILE: B-180482

DATE: July 26, 1974

MATTER OF: Technical Enterprises, ^{P. 3758}
Incorporated

DIGEST: Protest by unsuccessful bidder for subcontract under prime contract awarded by educational institution for construction of facilities is not for consideration by GAO as Government's only interest in project was award of an interest grant by Federal agency to educational institution to reduce cost of its borrowing funds from private source for construction.

The United States Department of Health, Education, and Welfare (HEW), has furnished a grant to the Des Moines Area Community College in connection with its construction of 5 buildings, site development, and parking facilities. The approximate cost of the project is \$4,000,000. Federal participation in the project is an annual interest subsidy awarded June 29, 1972, under Title VII C of the Higher Education Act of 1965, as amended (20 U.S.C. 1132c-4 (1972)), which will total approximately \$150,000 over a 5-year period.

3759

The College selected Proctor Plumbing and Heating, Incorporated, as the prime contractor for the mechanical construction, and the firm of Wilkins, Bussard & Dikis, as the architect and consulting engineers. Proctor proposed to contract with Technical Enterprises, Incorporated, to balance, adjust, and test air moving equipment and air distribution or exhausting systems. Subsequently, the architect and consulting engineers refused to approve Technical Enterprises as the independent air balance and testing subcontractor on the basis that it did not meet the specification which required the balancing and testing to be done by an approved member of the Associated Air Balance Council (AABC). Technical Enterprises, while conceding that it is not an AABC member, challenges the propriety and legitimacy of the specification requirement. Technical maintains that it possesses the same qualifications and capabilities as members of the AABC and protests its rejection as a subcontractor.

3760

3761

BEST DOCUMENT AVAILABLE

[Protest Involving Bid
for Subcontract]

708447

B-180482

The Government is not involved in funding the construction of the College's facilities and is not a party to the construction contracts. As noted above, the Government's only interest in the project is the award of an annual interest grant to the College to reduce the cost to it of borrowing funds, other than from the Government, for the construction. Neither the statute cited above, pursuant to which the interest grant was made, nor the implementing regulations (45 C.F.R. 170.71, et seq.), provide any basis for the Government to participate in the award or administration of construction contracts funded by sources other than the Federal Government.

In these circumstances, consideration of the protest by our Office would not be appropriate.


Deputy Comptroller General
of the United States

BEST DOCUMENT AVAILABLE