

DOCUMENT RESUME

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[Rejection of Ambiguous Bid]. B-188260; B-188322. August 2, 1977. 5 pp.

Decision re: Ed. A. Wilson, Inc.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).  
Contact: Office of the General Counsel: Procurement Law I.  
Budget Function: General Government: Other General Government (806).

Organization Concerned: General Services Administration.

Authority: 4 C.F.R. 20.2(b)(1). B-188511 (1977).

The protester objected to the award of two requirements contracts, alleging that its bid was not ambiguous and that the invitation for bids did not contain quantity estimates. The protest with regard to the invitation was unlikely and was not considered. The protester's bid was reasonably subject to more than one interpretation, only one of which made the bid low. Since the bidder may not explain the bid's meaning and thereby prejudice other bidders, the agency's rejection of the bid as ambiguous was appropriate. (Author/SC)

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*Wade  
F. J. III*

**DECISION**



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

FILE: B-188260  
B-188322  
MATTER OF: Ed A. Wilson, Inc.

DATE: August 2, 1977

**DIGEST:**

1. Since modification to bids making percentage deduction from percentage factor renders bid reasonably subject to more than one interpretation, only one of which makes bid low, bidder may not explain bid's meaning and thereby prejudice other bidder. GSA's rejection of ambiguous bid was therefore appropriate.
2. Protest that IFB did not contain quantity estimates for requirements contracts is untimely and not for consideration under GAO's Bid Protest Procedures, since alleged impropriety was apparent prior to bid opening and protest was not filed until after that date.

Ed A. Wilson, Inc. (Wilson), protests the award of two requirements contracts (GS-04B-16658 and GS-04B-16665) by the General Services Administration (GSA) for removing and installing various types of partitions and miscellaneous repairs in Government buildings within certain counties in Tennessee and Kentucky for the first contract and Georgia and Florida for the second. The bids were to be made on a percentage increase or decrease from a base price. Three bidders responded to the invitation for bids (IFB) for the first contract and five to the second.

Wilson initially submitted a bid of plus 16 percent for the first IFB but later modified its bid by certified mail prior to bid opening, as follows:

"Please deduct fourteen percent (14%) from:  
Percentage Factor."

Similarly, Wilson initially submitted a bid of minus 4 percent for the second IFB but later modified its bid by certified mail prior to bid opening, as follows:

"Please deduct six and one-half percent (6-1/2%)  
from Percentage Factor."

GSA argues that the following interpretations could be made from the two modifications:

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"Please deduct fourteen percent (14%)  
from Percentage Factor."

- 1)  $+16\% - 14\% = +2\%$
- 2)  $+16\% - (+16\% \times 14\%) = +16\% - 2.24\%$   
 $= +13.76\%$

"Please deduct six and one-half percent  
(6-1/2%) from Percentage Factor."

- 1)  $-4\% - 6-1/2\% = -10-1/2\%$
- 2)  $-4\% - (-4\% \times 6-1/2\%) = -4\% - (-.26\%)$   
 $= -4\% + .26\%$   
 $= -3.74\%$
- 3)  $-4\% - (4\% \times 6-1/2\%) = -4\% - .26\%$   
 $= -4.26\%$

Wilson argues that the first interpretation of each of the above is the only reasonable one. This interpretation would make Wilson the low bidder for each contract.

The bids for the contracts were the following:

Contract No. GS-04B-16658

Wilson	+2% or +13.76%
T.A.M.	+8%
West Florida Enterprises, Inc.	+20%

Contract No. GS-04B-16665

Wilson	-10-1/2%, -3.74%, or -4.26%
Driftwood Construction Co.	-5.5%
West Florida Enterprises, Inc.	.0%
Cox Construction Co., Inc.	.0%
Ace Contracting Co.	+1/.0%

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If each of Wilson's bids is reasonably subject to more than one interpretation only one of which makes each bid low, Wilson may not explain each bid's meaning and thereby prejudice the other bidders. B&P Printing, Inc., B-188511, June 2, 1977. The issue then turns on whether each bid was reasonably subject to more than one interpretation, since it is clear that of the interpretations formulated by GSA only one for each contract was low.

Wilson argues that, in order to derive the other meanings that GSA found, GSA would have to read words into its modification as follows:

"Please deduct six and one-half [or fourteen] percent of the percentage factor from the percentage factor."

Wilson says that:

"\* \* \* This is a very strained, unusual and forced interpretation of the bid modification. In other words, to reach the two [or three] interpretations of General Services Administration, GSA has inserted an additional clause into the bid modification as written. If Ed A. Wilson, Inc. had meant this, it would have said this in its bid modification. However, Ed A. Wilson, Inc. did not mean this when it submitted its bid modification. Instead of stating that a certain percentage of the percentage factor should be deducted from the percentage factor, Ed A. Wilson, Inc. expressly stated that a certain percentage should be deducted. We submit that the multiple interpretation of General Services Administration must be rejected as unsupported by the plain language of the bid and the bid modification."

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But the language of the modification lends itself to the GSA interpretation and we cannot say that the "plain language" of the bid favors one interpretation over the other. Further, in examining the range of bids, GSA's interpretations that are unfavorable to Wilson are more in line with the other bids submitted than the interpretation that Wilson favors. Wilson argues, however, that the reasonableness of the interpretation is not to be found in the range of the bids but in the reasonableness of its bids being submitted in terms of a hundredth of a percent. We find that GSA's interpretation is not unreasonable, especially where it results from a double discount context.

Wilson cites the language of paragraph 5(d) of the Standard Form 22, Instructions to Bidders, as misleading it to believe that the language it used in submitting its bid was required. That paragraph provides:

"(d) Modifications of bids already submitted will be considered if received at the office designated in the invitation for bids by the time set for opening of bids. Telegraphic modifications will be considered, but should not reveal the amount of the original or revised bid."

We agree with GSA that this paragraph is limited to telegraphic modifications and not to modifications sent by mail which are handled in the same manner as the original bid. It was therefore unreasonable for Wilson to reach the conclusion it did.

Wilson also protests that the bid documents did not contain quantity estimates for the requirements contracts. 4 C.F.R. § 20.2(b)(2) (1977) of our Bid Protest Procedures provides:


"(b)(1) Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of

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initial proposals shall be filed prior to bid  
opening or the closing date for receipt of  
initial proposals. \* \* \*

Since the alleged impropriety was apparent prior to bid opening  
and Wilson's protest was not filed until after that date, this  
issue is untimely and not for consideration.

Protest denied.

  
Deputy Comptroller General  
of the United States