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R. Gage
Pres. Jd

DECISION



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

FILE: B-189500

DATE: March 21, 1978

MATTER OF: Montgomery Ward and Company, Inc.

DIGEST:

Protest of property disposal agency's refusal to deviate from stated terms of solicitation in order to give preference to bid offering cash terms over high bid offering credit terms is denied where solicitation indicated either to be equally acceptable to the Government.

Montgomery Ward and Company, Inc. (MW) protests the General Services Administration's (GSA) acceptance of the high offer submitted by Space Bank Limited (SBL) of \$1,410,000 on standard credit terms, for a surplus property located in Pasadena, California. MW tendered a cash bid of \$1,355,000 for the same property. The property in question had been offered for sale by GSA on three previous occasions and was the subject of our decision Montgomery Ward and Company, Inc., B-189500, August 5, 1977, 77-2 CPD 83, where we found MW's protest of GSA's refusal to accept its high offer for the property to be untimely filed.

MW's present protest is founded upon MW's belief that the Government's interests would be better served by acceptance of MW's somewhat lower cash offer rather than SBL's high offer on the standard credit terms set out in the solicitation. However MW also questions GSA's refusal to consider MW's prior offer arguing that the price ultimately paid by SBL for the property was "virtually equal" to a GSA appraiser's earlier estimate of the value of the property which GSA had itself rejected.

GSA takes the position that once an agency advises the public, through a solicitation, that the Government will accept either cash terms or credit terms it is inconsistent for the agency, after the bids have been opened, to evidence a preference for cash over credit. GSA also states that because the interest charged is

comparable to commercial rates of interest it is questionable whether cash terms are preferable to credit terms which fully compensate the Government for the extension of credit. We believe that there is merit in GSA's position. This Office has long recognized that bidders normally compute their bids on the basis of the terms and conditions found in the solicitation, and will otherwise rely on such provisions and that it is a serious matter to vary or disregard any of the stated terms after bids have been opened. see, 50 Comp. Gen. 42 (1970).

MW's challenge of GSA's acceptance of an offer of approximately the same magnitude as that of a previously rejected GSA appraisal is more appropriately within the ambit of our earlier, aforementioned, decision and consequently not for our consideration at this time.

Accordingly, the protest is denied.


Acting Comptroller General
of the United States