



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Esprit International Corp.

File: B-276294

Date: March 10, 1997

Guido Gabbrielli for the protester.

Adam Vodraska, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation contains standard provision permitting bidders to insert acceptance period of less than 60 days, bidder offering a 14-day acceptance period may not be permitted to extend acceptance period after expiration of 14 days since acceptance of bid under such circumstances would afford bidder unfair advantage over other bidders.

DECISION

Esprit International Corp. protests the refusal of the Defense Reutilization and Marketing Service to consider its high bid for two items under sales invitation for bids (IFB) No. 31-7314, following the expiration of its bid acceptance period.

We dismiss the protest.

The IFB contained the following standard language concerning the bid acceptance period:

"In compliance with the above, the undersigned offers and agrees, if this bid is accepted within ___ calendar days (60 calendar days if no period is specified by the Government or the Bidder, but not less than 10 calendar days in any case) after date of Bid Opening, to pay for and remove the property."

Esprit limited its bid acceptance period to 14-calendar days from bid opening. At the January 7, 1997, bid opening, Esprit submitted the highest bids on items 166 and 263.

However, the agency could not process the award within the 14-day period due to certain administrative difficulties in connection with the sale. On January 29, the contracting officer informed Esprit that she could not award Esprit the items

because the bid acceptance period specified by Esprit in its bid had expired. Esprit pursued the matter with the agency, which denied Esprit's request to revive its bid by extending its expired bid acceptance period. Esprit then filed this protest.

Where, as here, the IFB does not contain a mandatory bid acceptance period, the bidder is free to offer a period shorter than the automatic 60-day period stated in the IFB; however, the bidder runs the risk that award will not be made either during this shorter time or by the date the IFB specifies as the date of award, since the government is not bound to award the contract on that date. On the other hand, the bidder which offers a shorter acceptance period is exposed to the risk of the marketplace for a shorter period of time, and is thus taking less risk than other bidders who offer a longer bid acceptance period. See Mid Atlantic Label, Inc., B-234120, Mar. 31, 1989, 89-1 CPD ¶ 338; Peck Iron and Metal Co., Inc., B-195716, Oct. 17, 1979, 79-2 CPD ¶ 265.

We have permitted a bidder to revive its expired bid only where the bidder would not, thereby, compromise the integrity of the competitive bidding process by obtaining an advantage over the other bidders. Discount Machinery & Equip., Inc., B-244392, Oct. 15, 1991, 91-2 CPD ¶ 334; John T. Jones Constr. Co., B-240643, Nov. 27, 1990, 90-2 CPD ¶ 430. Here, to allow Esprit to revive its bid after the expiration of its 14-day acceptance period would afford the protester an unfair advantage since its initial exposure to the risk of the marketplace was for a shorter time period than that applicable to the bidders who offered a longer period. See Mid Atlantic Label, Inc., *supra*; Peck Iron and Metal Co., Inc., *supra*. Accordingly, the agency properly refused to consider Esprit's bid for items 166 and 263 following the expiration of Esprit's bid acceptance period.

The protest is dismissed.

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