

DECISION



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

FILE: B-214612

DATE: March 26, 1984

MATTER OF: Triad Associates, Inc.

DIGEST:

Where a protest alleges that the agency improperly rejected as nonresponsive a bid offering an acceptance period less than that called for in the IFB, the issue of the responsiveness of the bid is rendered moot by the fact that the offered acceptance period in question expired well before the agency awarded the contract.

Triad Associates, Inc. protests the award of a contract to Rainey's Security Agency, Inc. under invitation for bids (IFB) No. GS-05B-42439 issued by the General Services Administration (GSA) for guard services at certain GSA facilities. Triad complains that the agency improperly found its bid to be nonresponsive to the invitation. We summarily deny the protest in part and dismiss it in part.

The IFB at page IV-L-3, paragraph 7, stated that bids offering less than 60 days for acceptance by the government from the date set for opening would be considered nonresponsive. The preprinted offer portion on page 1 of the IFB provides, in pertinent part:

"In compliance with the above, the undersigned agrees that if this offer is accepted within _____ days (60 calendar days unless a different period is indicated by the offeror) from the date of opening, he will furnish performance bond and insurance, if required, within 15 calendar days...."

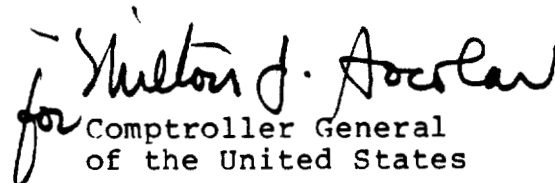
Because Triad had inserted "15" into the blank, GSA considered this to be a failure to conform to an essential requirement of the invitation, see Federal Procurement Regulations § 1-2.404-2(a) (1964 ed.), and accordingly found the bid to be nonresponsive. In this regard, however, Triad had previously extended its bid at the

contracting officer's request, and now urges that this extension served to nullify the effect of inserting "15" into the blank and, therefore, that its bid could not properly be found nonresponsive by reason of that insertion. From the record, it appears that the contracting officer inadvertently made the request before rejecting Triad's bid.

We need not reach the issue of responsiveness raised here because the question of whether Triad's insertion of "15" was a material exception to the invitation is made irrelevant by the fact that the firm's bid expired and thus was not available for acceptance by the time award was made. Regardless of Triad's explanation that it had misread Section III as requiring the offeror to insert only the time necessary to furnish a performance bond, we regard the insertion as the firm's limitation of the acceptance period to 15 calendar days. See Werres Corporation, B-211870, August 23, 1983, 83-2 CPD 243. Here, bids were opened on December 14; Triad's acceptance period thus expired on December 29, well before GSA awarded the contract to Rainey's Security at the end of February 1984. Further, the extension was of no legal effect. A bidder offering a bid acceptance period shorter than that requested cannot be allowed to extend that period, either before or after its expiration, where other bidders offered the longer requested acceptance period. Id.

Triad also alleges that Rainey's Security does not qualify as a small business concern for purposes of this procurement. Our Office will not consider the allegation because the Small Business Administration is statutorily vested with exclusive authority to determine matters of small business size status for procurement purposes. Industrial Lease Inc. of Fayetteville, B-204446, August 31, 1981, 81-2 CPD 191.

The protest is summarily denied in part and dismissed in part.

for 
Comptroller General
of the United States