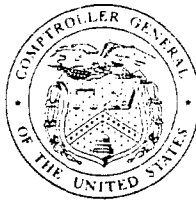


# DECISION



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

J. Vickers  
Page I

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FILE: B-193548

DATE: February 26, 1979

MATTER OF: Government Contractors, Inc. DLG01008

## DIGEST:

*[Protest of Janitorial Services Contract Award by Department of Navy]*

1. Bidder who has offered bid acceptance period required in IFB and bid subsequently expires may at his option accept award because only right conferred by expiration of acceptance period is conferred on bidder and bidder may waive such right if still willing to accept award.
2. Where IFB requires that bidder base its bid on furnishing 166,500 man-hours during performance of contract, contention by protester that low bidder did not comply with above is found to be without merit since low bid took no exception to requirement and, therefore, was responsive on its face.
3. Protest that low bidder will not pay rates contained in Service Contract Act wage determination because bidder is utilizing employees from Federal work programs, such as WIN and CETA, is denied as these programs do not affect contractor's obligation under act but reimburse employer portion of employees' wages during training.

Government Contractors, Inc. (GCI), has protested the award of a contract to K&P Janitorial, Inc. (K&P), under invitation for bids (IFB) No. N62470-78-B-4027 issued by the Department of the Navy for janitorial services in the Sewells Point area, Norfolk, Virginia.

K&P submitted the low bid of \$860,460.68 and GCI was the sixth low bidder at \$982,042.01.

GCI contends that the acceptance period of the bid of K&P had expired before the award was made on

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*[Signature]*

October 23, 1978, and that K&P's bid was not based on furnishing 166,500 man-hours as required by the IFB.

Bid opening was June 8, 1978, and required a 60-day bid acceptance period which was subsequently extended by K&P for an additional 60 days or until October 8, 1978. GCI argues that a proper award could not be made to K&P on October 23, 1978, based on its expired bid. Our Office has held that a bidder who has offered the bid acceptance period required in an IFB and the bid subsequently expires may at his option accept an award because the integrity of the competitive bidding system is not compromised and there is no prejudice to other bidders. This is so since the only right which is conferred by the expiration of the acceptance period is conferred upon the bidder and, therefore, the bidder may waive such a right if he is still willing to accept an award on the basis of the bid submitted. 46 Comp. Gen. 371 (1966) and Guy F. Atkinson Company, et al., B-183842, December 9, 1975, 75-2 CPD 378.

Regarding the requirement in the IFB that a bidder must base its bid on furnishing 166,500 man-hours, K&P took no exception to the requirement in its bid and, therefore, the bid was responsive as submitted. Government Contractors, Inc. - Reconsideration, B-187671, March 3, 1977, 77-1 CPD 159.

K&P has submitted a breakdown of its bid to the Navy showing that it proposes to furnish 166,500 man-hours in the performance of the contract. The letter containing this breakdown also shows that one reason K&P bid was lower than GCI's bid is that K&P intends to utilize Federal work programs, such as the WIN and CETA manpower programs, to recruit its employees. These programs reimburse firms a portion of the employees' wages during training and also allow certain tax advantages.

Because of the use of these programs, GCI argues that K&P will not be paying wages in accordance with the Service Contract Act wage determination contained in the IFB. These programs do not affect a contractor's obligation under the Service Contract Act but only pro-

vide for reimbursement to the employer of a portion of the wages paid. Therefore, this basis of protest is without merit.

Finally, GCI contends that the Navy failed to follow an earlier decision of our Office where it protested rejection of its bid on the basis that it had not complied with a similar man-hour requirement. While our initial decision in that protest sustained GCI's protest and recommended certain corrective action which was not followed, upon reconsideration we changed our recommendation and the Navy complied. See Government Contractors, Inc.--Reconsideration, B-187671, February 22, 1978, 78-1 CPD 146.

Accordingly, the protest is denied.



Deputy Comptroller General  
of the United States