



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

B-170425

May 8, 1973

30888

The Honorable Arthur F. Sampson
Acting Administrator
General Services Administration

Dear Mr. Sampson:

We are in receipt of a letter dated April 10, 1973, from your General Counsel, requesting an opinion as to the validity of a contract awarded to The Crowell Corporation under invitation for bids (IFB) FPNSO-E2-2349-A, issued by the New York Regional Office.

By the terms of the offer, the Crowell bid was subject to acceptance within 60 calendar days from the date of receipt of offers--the 60th calendar day being Saturday, February 3, 1973. However, award of the contract was made on Monday, February 5, 1973, the 62nd day. Crowell immediately declined the award contending that no contract came into being because its offer was not accepted within the time specified in the bid. On the other hand, GSA contends that the award was valid since N.Y. Gen. Constr Law secs. 25 and 25-a (21 McKinney 1972-1973 SUPP.) provides that when an act is authorized or required to be performed on a Saturday, Sunday or a public holiday, it may be done on the next succeeding business day.

In a somewhat similar case, our Office held that, in the absence of Federal law, State law will apply. 38 Comp. Gen. 445 (1958), reconsidered B-137634, July 5, 1963; but see The Padbloc Company, Inc. v. United States, 161 Ct. Cl. 369 (1963).

However, unlike the situation described in 38 Comp. Gen., supra, this IFB provides on page 3 that standard form 33A is incorporated by reference. Standard form 33A states in section 2(f) that: "Time, if stated as a number of days, will include Saturdays, Sundays and holidays." In view of the IFB statements regarding time, the applicability of the State statute becomes academic. We believe that the last day for acceptance of the bid under the IFB was the 60th calendar day after bid opening or Saturday, February 3, 1973.

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Since the purported award made on February 5, the succeeding Monday, was declined by Crowell, no valid contract was consummated.

The decision at 38 Comp. Gen. 445 no longer will be followed by our Office in cases where the IFB incorporates standard form 33A.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States