

Appellate Court Rules Acceptance of Contractor's Bid Constitutes Formation of Contract

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The Michigan Court of Appeals recently held that the government's acceptance of a contractor's bid constitutes formation of an enforceable contract.

In *The Garrison Company v Bishop International Airport Authority*, No. 293415, 2010 WL 4679501 (Mich App 2010), the general contractor submitted the low bid on the airport project. The bid was accepted by the airport authority and the general contractor was notified that it had been awarded the bid.

Ensuing discussions were had between the parties regarding the project. However, the director of the airport authority later notified the general contractor that he would not finalize and execute the contract.

The general contractor brought suit to recover damages after the airport authority refused to honor the bid award. The trial court held that the evidence reflected that the parties did not intend to be contractually bound until a construction contract was executed. The contractor appealed on grounds that a valid and enforceable contract was formed when the contractor's bid was accepted by the airport authority.

The Michigan Court of Appeals reversed, holding that the airport authority had entered into a contract with the general contractor by awarding it the bid despite the fact that no construction contract was signed. In so ruling, the court reasoned that "[t]he contractor could not opt to walk away from the project without liability." The diminutive "act of formally executing the construction contracts was not a step that had to be completed before a valid contractual relationship arose."

Moreover, the court concluded that based upon months of discussions regarding the project, "the parties were proceeding as if a contractual relationship existed."

In its ruling the appellate court referenced a century-old history of Michigan case law that has endured the test of time. Specifically, once a bid has been accepted, a contract has been formed.

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