



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

A-179041 (2)

401102
OCT 26 1973

Manpower Incorporated of Providence
10 Abbott Park Place
Providence, Rhode Island 02903

Attention: Mr. Sheldon B. Sollosy
President

Gentlemen:

Reference is made to your letter dated July 5, 1973, protesting the rejection of your proposal as late under request for proposals (RFP) No. N00140-73-R-0934, issued by the Naval Regional Procurement Office, Philadelphia, Pennsylvania.

The subject RFP, issued May 9, 1973, solicited offers for furnishing labor and materials to perform mess attendant services in Food Service Buildings 502 and 2 at the Naval Training Center, Bainbridge, Maryland, during the period July 1, 1973 through June 30, 1974. A modification was issued on June 5, 1973, correcting a reference to the employer's FICA contribution to reflect the current rate, and making certain revisions in the estimated number of meals to be served under the proposed contract. The amendment requested acknowledgment by return wire. Seven responses were received by the date for receipt of proposals, 4:00 p.m. on June 8, 1973. Manpower's proposal was received on June 11, 1973, determined to be a late proposal, and not considered for an award. The contract was awarded to Military Base Management, Incorporated, on June 27, 1973.

You contend that the closing date for receipt of proposals should have been postponed, since you did not receive the amendment until 4:55 p.m. on June 6, 1973. You state that the telegraphic amendment as telephoned to you by Western Union did not contain the authorization to acknowledge by telegram, that you did not receive a copy of the message, and that your offer containing the acknowledgment was mailed by 2:30 p.m. on June 7, 1973.

Standard Form 33A, incorporated by reference in the RFP, and ASPR 3-506(c) apply the late bid standards set forth in ASPR 2-303 to late proposals. ASPR 2-303.3 reads, in part, as follows:

[Protest Against Late Proposal Rejection]

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"(a) Circumstances Permitting Consideration for Award of a Late Mailed Bid. A late mailed bid received before award may be considered for award only if;

- (1) it was sent by registered mail or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained, and it is determined that the lateness was due solely to a delay in the mails (based on evidence obtained pursuant to (b), (c), and (d)) for which the bidder was not responsible; or"

The Philadelphia Post Office states that registered mail is dispatched once a day from Providence, Rhode Island, to Philadelphia. Since your proposal was not mailed until after the daily dispatch on June 7, 1973, it was held for the next available dispatch on June 8, 1973. Your proposal arrived in the Registry Section, Philadelphia General Post Office at 2:05 p.m., June 8, 1973, and was dispatched to the U.S. Naval Base Station, Bainbridge, by the first available dispatch on June 9, 1973. We have previously held that delay due to Postal Service procedures of dispatching registered mail once a day is not excusable delay within the meaning of ABPR 2-303.3. See B-173559, September 30, 1971. In view of the fact that your proposal was handled in the ordinary course of the mails, the contracting officer acted properly in refusing to consider your late proposal.

Regarding your contention that the contracting officer should have extended the time for submitting proposals, we note from the record that you had not yet mailed your proposal when you were notified at 4:55 p.m. on June 6 of the solicitation modification. Apparently the contracting officer expected that offerors would have mailed their proposals by June 6, and that they therefore would be in a position to respond to the amendment changes before 4:00 p.m. on June 8, by return wire. Considering that the seven other respondents to the solicitation provided timely mailed proposals and telegraphic acknowledgment of the amendment, we are unable to conclude that the contracting officer's procedure was improper, and therefore, your protest is denied.

We have enclosed a copy of our decision of today regarding the protest of this procurement by Southeastern Services, Incorporated, of Jackson, Mississippi.

Sincerely yours,

Paul G. Manning

For the Comptroller General
of the United States