

DOCUMENT RESUME

03300 - [A2293#25]

[Protest to Rejection of Untimely Bid Sent by Mailgram].
B-189062. August 16, 1977. 2 pp. + enclosure (1 pp.).

Decision re: Crawford Development and Mfg.; by Robert P. Keller,
Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law I.
Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).
Organization Concerned: Defense Logistics Agency.
Authority: A.S.P.R. 7-2002.2. B-188665 (1977). B-187985 (1977).

A protester contended that his bid, sent by authorized mailgram, should not have been rejected as late because it was mishandled. Since there was no documentary evidence to show when the bid arrived at the installation initially, it could not be considered for award. (HTW)

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Ronnie Francis
Proc. I



DECISION

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

FILE: B-189062

DATE: August 16, 1977

MATTER OF: Crawford Development & Mfg.

DIGEST:

Bid, sent by authorized mailgram, may not be considered since only documentary evidence available indicates that it was received at installation after bid opening time.

Invitation for bids (IFB) DSA-400-77-B-1870 was issued March 29, 1977, for folding-hand can openers. Telegraphic offers, including mailgrams, were authorized in the IFB.

The IFB specified that the bid opening time would be 11:15 a.m. on April 25, 1977, and designated the Bid Custodian, Operations Support Office, Directorate of Procurement & Production, for the receipt of offers.

On April 25, 1977, at 11:15 a.m., three bids had been received by the Bid Custodian and were publicly opened. At 2 p.m., on the same day, the Bid Custodian received a mailgram addressed to the bid opening room from Crawford Development & Mfg. (Crawford) which, upon being opened, was found to be the lowest bid submitted in response to the IFB.

Armed Services Procurement Regulation (ASPR) § 7-2002.2 (1976 ed.), incorporated by reference into the IFB, essentially provides that any bid received at the office designated in the solicitation after the exact time specified will not be considered unless it is received before award and the late receipt was due solely to mis-handling by the Government after receipt at the Government installation.

The regulation further provides:

"(c) The only acceptable evidence to establish:

* * * * *

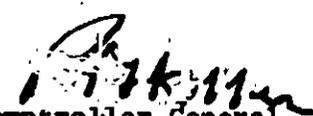
"(ii) the time of receipt at the Government installation is the time/date stamp of such installation on the bid wrapper or other documentary evidence of receipt maintained by the installation."

The only documentary evidence as to the time of receipt of the mailgram is the Bid Custodian's date/time stamp showing 2 p.m., April 25, 1977. The contracting officer, therefore, notified the firm by letter of April 27, 1977, that the bid would not be considered for award since it was received after the time specified for bid opening.

Crawford contends that the bid should not have been rejected as late because it was mishandled. However, under the late bid provision, supra, Crawford's bid received at 2 p.m. was not timely received and the delay in delivery cannot be attributed to mishandling after receipt at the Government installation. See Federal Contracting Corporation, B-188665, June 22, 1977, 56 Comp. Gen. _____, 77-1 CPD 444. The absence of a time/date stamp on the bid envelope to establish the initial time of receipt of the bid in the Government installation does not change the result. In ZB Precision Products, Inc., B-187985, May 6, 1977, 77-1 CPI 316, the bid opening time was 2 p.m., on November 29, 1976. The only documentary evidence of receipt was a handwritten notation on the bid envelope that the bid was received in the bid room on November 30, 1976, at 11:15 a.m. The contracting officer acknowledged that the bid envelope should have been time/date stamped to show the initial receipt at the installation. In the decision it was stated that we did not need to speculate on when the bid arrived at the installation. We stated that paragraph (c)(ii) of the late bid clause made it clear that the time of receipt must be established by documentary evidence such as a time/date and that while documentary evidence showed that the bid was received in the bid room after bid opening, there was no documentary evidence to establish when the bid was first received at the installation. We recognized that the lack of a time/date stamp was not the fault of the bidder and that it could not be blamed for its absence, but we went on to conclude that without any documentary evidence to show when the bid arrived at the installation initially, the bid could not be considered for award. The ZB Precision decision is controlling here.

Accordingly, the protest is denied.

Deputy


Comptroller General
of the United States



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

B-189062

August 16, 1977

The Honorable Barry Goldwater
United States Senate

Dear Senator Goldwater:

We refer to your letter of May 5, 1977, concerning the protest of Crawford Development & Mfg. against the rejection of its bid under solicitation No. 400-77-B-1870 issued by the Defense Logistics Agency.

By decision of today, copy enclosed, we have denied the protest.

Sincerely yours,

Deputy


Comptroller General
of the United States

Enclosure