

DECISION

24381
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-208451**DATE:** March 1, 1983**MATTER OF:** MKB Manufacturing Corporation**DIGEST:**

Where protester fails to properly extend its bid, whether due to a mistake or failure to properly deliver expression of intention to extend bid within original bid acceptance period, contracting agency may properly award to next lowest bidder, because erroneous extension was received 15 days after expiration of the original bid acceptance period.

MKB Manufacturing Corporation (MKB) protests the award of a contract to Systematics Manufacturing and Tool Company, Incorporated (Systematics), under solicitation No. DAAA09-82-B-0377 issued by the United States Armament Materiel Development and Readiness Command (ARRCOM), Rock Island, Illinois. MKB challenges the award on the basis that the ARRCOM improperly found that MKB had allowed its low bid to expire. We deny the protest.

On March 9, 1982, ARRCOM issued a solicitation to purchase 55,417 forward assist pawls for use in the M16 rifle. Bid opening was April 22, 1982. The low bidder was found nonresponsive following denial of a certificate of competency by the Small Business Administration on June 28, 1982. In the interim, on June 15, 1982, the contracting officer requested the other competing bidders to extend their bid acceptance periods from June 21, 1982, the original expiration date, to July 21, 1982. In response to the request, ARRCOM received an unsigned form from MKB, the second low bidder, on July 6, 1982, that indicated it would extend its bid to June 15, 1982, 6 days shorter than the original period. ARRCOM interpreted the form as MKB's failure to properly extend its bid and awarded the contract to Systematics, the next low bidder, on July 28, 1982.

MKB argues that since ARRCOM received an unsigned form that purported to extend a bid, which expired on June 21, by shortening the acceptance period, it should have been aware

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of an obvious error. In MKB's view, ARRCOM should have sought clarification of the extension as had been its policy involving obvious errors in the past. MKB alleges further that it had no idea how ARRCOM received the unsigned bid extension. Finally, MKB asserts that, in fact, the bid was properly extended within the original acceptance period and to support the allegation has included copies of what purport to be extensions to July 21 and August 20.

ARRCOM denies receiving any extension of the bid acceptance period from MKB other than the improper July 6 extension. ARRCOM also contends that MKB is not an interested party for the purpose of maintaining a protest before our Office.

In our opinion, MKB is an interested party in the outcome of this protest. In Don Greene Contractor, Inc., B-198612, July 28, 1980, 80-2 CPD 74, the case cited by ARRCOM, the protester refused to grant an extension of its bid acceptance period during the pendency of its protest at our Office against a nonresponsiveness determination. We stated that determining whether a party is sufficiently interested involves consideration of the party's status in relation to the procurement and the nature of the issues involved and that by refusing to extend its bid, the protester withdrew its offer and, therefore, rendered itself ineligible for award. This case, however, is clearly distinguishable because the issue in the protest is the validity of the alleged extension. Therefore, a successful protest could result in qualifying MKB for award.

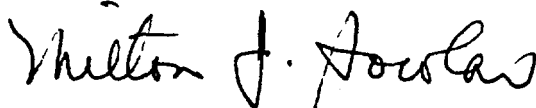
Although the protester denies knowledge of the unsigned bid extension and has submitted copies of proper bid extensions, there is nothing in the record that establishes the valid extensions were ever properly mailed or received by ARRCOM. ARRCOM denies ever receiving a proper extension and the record contains the unsigned extension received on July 6 on the stationery of MKB, accompanied by an envelope from MKB, postmarked June 27. In our view, MKB has failed to offer sufficient evidence to establish that it properly extended its bid. Therefore, ARRCOM acted reasonably in finding that MKB's bid had expired.

While, generally, a contracting officer has a duty to seek verification of an obvious error in certain situations, for example, mistake in bid, we find this argument unpersuasive here because, even assuming that the contracting officer should have inquired into the shortened acceptance period, it still would not change the fact that the extension was received 15 days after the expiration of the original period.

We have recognized that the contracting officer may permit a bidder to revive an expired bid, where the bidder did not limit its acceptance period to one of shorter duration than the other bidders and where the bidder did not exhibit behavior which would adversely affect the integrity of the competitive bidding system. In either instance, for the agency to accept the bid in a manner at variance with the terms offered by the other bidders limits the bidder's exposure to the uncertainties of the marketplace and reduces the risk. Arsco International, B-202607, July 17, 1981, 81-2 CPD 46. MKB initially offered the same 60-day acceptance period required in the solicitation, as did the other bidders. However, on July 6, ARRCOM received a bid extension that purported to extend a bid that expired on June 21, by shortening the period to June 15.

Given our conclusion that MKB has failed to sustain the burden of proving that the bid was properly extended before June 21, we find that the lateness of the extension cannot be corrected or waived. To allow MKB to revive its bid on the basis of the July 6 extension, after a period of 15 days when the bid was unacceptable, would afford it an advantage over the other bidders that extended their bids in appropriate fashion--the option of reviving its bid as its own interest dictated, which necessarily compromises the integrity of the competitive bidding system. United Electric Motor Company, Inc., B-191996, September 18, 1978, 78-2 CPD 206.

Accordingly, the protest is denied.

for 
Comptroller General
of the United States