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DECISION



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

FILE: B-216624.2 **DATE:** February 11, 1985
MATTER OF: Monthei Mechanical, Inc.--
Reconsideration

DIGEST:

Prior decision is affirmed on reconsideration where the protester has not shown any error of fact or law which would warrant reversal of the decision.

Monthei Mechanical, Inc. (Monthei), requests reconsideration of our decision, Monthei Mechanical, Inc., B-216624, December 17, 1984, 84-2 C.P.D. ¶ 675, denying Monthei's protest of the Navy's rejection of its hand-carried bid as late. We found that a significant cause of the late delivery of Monthei's bid was the failure of Monthei's representative to allow sufficient time for delivery. Further, we concluded that the late delivery of Monthei's bid did not result from such extraordinary delay or misdirection by government personnel as to permit its consideration. For the reasons discussed below, we affirm our decision.

In its request for reconsideration, Monthei asserts that the Navy counsel has no support for certain facts discussed in the agency report, e.g., that the bid box was customarily moved prior to bidding, that Monthei was familiar with this procedure, and that Monthei's representative did not listen to people attempting to give her directions. However, the Navy has submitted statements from Navy personnel in support of facts summarized in its report. For example, according to the Commanding Officer, it is standard procedure to have the bid opening team and the bid box in the conference room at the time designated in the invitation for bids for bid opening. There is a receptionist at the front desk (approximately 50 feet from the conference room) to direct bidders to the place of bid opening. On bid opening day, Monthei's representative entered the building, protested that the Navy had hidden the bid box, and refused to listen to the receptionist trying to direct her to the conference room. The Commanding Officer noted that Monthei had bid on 12 projects advertised by his office in the past several months and was very familiar with the bid opening procedures.

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Monthei also takes issue with our statement that arriving in the building parking lot 30 seconds before the bid opening deadline does not ensure sufficient time for delivery. According to Monthei, time of arrival in the parking lot is immaterial; the only material time is arrival at the place designated for bid opening, and Monthei claims its representative arrived at the place designated for bid opening before the deadline.

Monthei apparently does not fully comprehend the basis of our decision. The invitation for bids required that all hand-delivered bids be deposited in the bid box in the contracting office building before the time set for bid opening. Monthei admits that its bid was delivered to the bid opening room, where the bid box was, after the bid deadline. Our office has stated that a late hand-carried bid may not be considered unless there is a showing that improper government action was the paramount cause for the late delivery and consideration of the late bid would not compromise the integrity of the competitive bidding system. Saint Louis Tuckpointing and Painting Co., Inc., B-212351.2, Nov. 18, 1983, 83-2 C.P.D. ¶ 588. In determining whether improper government action is the paramount cause for late delivery, we consider whether the bidder significantly contributed to the late delivery by not acting reasonably in fulfilling its responsibility of delivering the bid to the proper place by the proper time. James L. Ferry and Sons, Inc., B-181612, Nov. 7, 1984, 74-2 C.P.D. ¶ 245. The arrival of Monthei's representative in the building parking lot only 30 seconds before the bid opening deadline, as well as the refusal of Monthei's representative to listen to directions, was a factor which we considered in determining that Monthei significantly contributed to late delivery of its bid and should not have its bid considered.

Monthei also contends that our decision introduced a new test for government impropriety causing a bid to be late-- extraordinary delay or misdirection by government personnel. Monthei ignores our discussion of extraordinary delay and/or misdirection by government personnel in such decisions as 34 Comp. Gen. 150 (1954), and James L. Ferry and Sons, Inc., B-181612, supra, 74-2 C.P.D. ¶ 245 at 4. In 34 Comp. Gen. 150 (1954), we held that a late bid could be considered where extraordinary delay by government personnel at a base entrance in furnishing an entrance pass caused the bid to be late. Conversely, in James L. Ferry and Sons, we held that a late bid should not be considered where the bidder failed to allow

sufficient time for delivery and lateness was not attributable to extraordinary delay or misdirection by government personnel.

Since Monthei has not demonstrated any error of fact or law in our prior decision, that decision is affirmed.

for 
Comptroller General
of the United States