



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: R&E Electronics, Inc.
File: B-223723
Date: September 8, 1986

DIGEST

Choosing the date for bid opening is within the contracting officer's discretion. The fact that the firm is unable to prepare a bid before that date does not render the procurement improper if all firms were treated equally and the government obtained adequate competition and reasonable prices.

DECISION

R&E Electronics, Inc., protests that the Department of the Navy, in amending invitation for bids (IFB) No. N62467-85-B-1517 to advance the bid opening date, did not give firms enough time to prepare their bids. We deny the protest.

The Navy issued the IFB, which was for a fire alarm system at the Naval Hospital in Charleston, South Carolina, on May 5, 1986. Although the agency reports that bid opening originally was scheduled for June 5, a copy of the IFB furnished to our Office does not include a bid opening date. Amendment No. 0001, issued May 13, "postponed" bid opening from June 5 to September 4, but amendment No. 0002, issued June 25, advanced bid opening to July 10.

R&E states that it received amendment No. 0002 on July 2, and immediately complained to the Navy that the period remaining for bid preparation was too short to permit R&E to enter the competition. When the Navy conducted bid opening on July 10 anyway, R&E protested to our Office. In its protest, R&E notes that Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.202-1(a) (1985), generally requires a 30-day bidding time, and suggests that the Navy should have advised bidders of the advanced opening by telephone.

The Navy, in response to R&E's protest, asserts that neither of the IFB amendments was technical or required extensive recalculations. The Navy further states that it did not contact bidders by telephone when it issued amendment No. 0002 on June 25 because 14 calendar days still remained until bid opening, and notes that there were 66 calendar days between IFB issuance on May 5 and bid opening on July 10.

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We find no legal merit to the protest. First, the Navy did not violate the regulation cited by R&E, since the total bid preparation period exceeded 30 days.

Second, although the applicable regulation requires that an amendment afford prospective bidders sufficient time to consider the information in it in preparing or modifying their bids, see FAR, 48 C.F.R. § 14.202-1(c), the decision as to an appropriate bid preparation period lies within the discretion of the contracting officer. See Grace Industries, Inc., B-220606, Dec. 17, 1985, 85-2 C.P.D. ¶ 682. In this regard, the fact that a firm was not able to compete because a request that bid opening be delayed was denied does not invalidate the procurement if all prospective bidders were treated equally and the government obtained adequate competition and reasonable prices. Avitech, Inc., B-216398, Feb. 4, 1985, 85-1 C.P.D. ¶ 133.

R&E, which has the burden of proving its case, has decided not to comment on the Navy's report, instead asking that our Office decide the protest on the existing record. As a result, we have no basis on which to question the Navy's assertion that the substance of amendment No. 0002 should not have prevented a firm that, like R&E, already had the invitation in hand for more than 1 month, from preparing a proper bid by July 10, and the agency's attendant decision not to delay bid opening. We point out that we have held that a 14-day period for transmittal, consideration and return of a solicitation amendment on its face appears sufficient and reasonable. Infinity Corp., B-202508.3, July 17, 1981, 81-2 C.P.D. ¶ 45.

The Navy received four bids in response to the IFB, ranging from \$203,028 to \$239,956; the government estimate for the project was \$215,692. This appears to represent both adequate competition and the receipt of reasonable prices. Accordingly, and since there is no evidence that the Navy deliberately attempted to preclude R&E from competing, we will not object to the agency's decision to open bids on July 10.

The protest is denied.

for 
Harry R. Van Cleve
General Counsel