



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Allstate Rent-A-Car, Inc.  
File: B-225633  
Date: May 1, 1987

---

### DIGEST

Late bid should have been considered where the paramount reason for lateness was the agency's failure to establish reasonable procedures to assure the timely transmission of the bid to the bid opening location which arrived at the installation's post office the day before bid opening.

---

### DECISION

Allstate Rent-A-Car, Inc. protests the Navy's rejection of its bid as late under invitation for bids (IFB) No. N62477-87-B-0011, issued by the Chesapeake Division, Naval Facilities Engineering Command for the lease of surveillance and law enforcement sedans. We sustain the protest.

The IFB set bid opening at 2:00 p.m. on January 7, 1987, in Building 208 at the Washington Navy Yard, and stated that mailed bids should be addressed to Building 208. Allstate submitted its properly addressed bid package to the U.S. Postal Service for express mail delivery on January 5, at 3:00 p.m. The package clearly stated on its face that it was a bid.

At 2:00 p.m. on January 6, the Postal Service delivered Allstate's package to the U.S. Post Office at the Washington Navy Yard, where a Postal Service employee filled out a notice-of-arrival slip indicating that the package was being held for the contracting activity. The notice did not indicate that the package contained a bid but did state that the package was addressed to the bid opening location.

The Postal Service delivered the notice-of-arrival slip to the Navy Yard Mail Center, the installation's central receiving office, sometime during the morning of January 7,

038775

the date of bid opening.<sup>1/</sup> The Navy reports that the Postal Service's morning delivery occurs between 9:00 a.m. and 11:30 a.m. The Navy Mail Center in turn routed the slip to the mail room in Building 212 which is the sorting and distributing center for the contracting activity. While there is no record of when the slip arrived at this mail room, the Navy's contract specialist reports having called the mail room 5 minutes before bid opening and being told no mail or notice of arrival slips were there.

Bid opening occurred as scheduled without Allstate's bid, which was still at the post office, being considered. On the afternoon of January 8, a clerk for the contracting activity found the notice slip in the mail room's box for Building 208, and picked up the bid package from the post office at 1:40 p.m. Although Allstate's bid was lower than the other bids, the contracting officer rejected the bid as late.

Allstate argues that its bid was sent in time to be considered but was late solely as a result of mishandling by the Navy. In this respect, the protester notes that after the Postal Service transmitted the bid from Las Vegas, Nevada to the Washington Navy Yard in less than a day, the Navy took more than 24 hours after receiving the notice from the Postal Service to pick up and deliver the bid across the Navy Yard to the bid opening room.

The Navy states that it is the bidder's responsibility to ensure timely receipt of its bid and Allstate's late bid cannot be considered since it does not meet the terms of the late bid clause set forth in the Federal Acquisition Regulation (FAR), 48 C.F.R. § 52.214-7 (1985), and incorporated by reference in the solicitation. This provision states that a late bid will be considered only if it was received before award and (1) was sent by registered or certified mail at least 5 days prior to the opening date, or (2) the late receipt was due solely to government mishandling after receipt as the government installation.

We agree with the Navy that neither of these exceptions applies here. Express mail is not considered certified or

---

<sup>1/</sup>Apparently, there is an agreement between the Navy and the post office at the Washington Navy Yard that mail is to be delivered to the post office rather than to the building or room shown on the address. The post office then notifies the Navy's central receiving facility of the receipt of any package, after which it is the Navy's responsibility to pick up the package.

registered mail for purposes of the first exception, Nuaire, Inc., B-221551, Apr. 2, 1986, 86-1 CPD ¶ 314, and in any event, Allstate's bid was not mailed until 2 days before bid opening. The second exception does not apply because the bid itself was already late when it was received on January 8 at the government installation, which, within the context of the late bid clause, means the local agency office, not the local post office. Id.

We have recognized, however, that where a protester shows that government mishandling during the process of receipt (as distinguished from mishandling after receipt) was the paramount reason its bid was late, the bid may be considered. Nuaire, Inc., B-221551, supra. For instance, where bids are delivered to a local post office for pick up by agency personnel, the agency has a duty to establish procedures to ensure that the physical transmission of bids is accomplished within a reasonable time of their receipt. Federal Contracting Corp., 56 Comp. Gen. 737 (1977), 77-1 CPD ¶ 444. Thus, mishandling may be charged to the government where the delay in the transmission of a bid is due to the agency's failure to use a transmittal procedure that would have permitted the bid to be delivered to the bid opening location within a reasonable time before bid opening. In order to conclude, however, that a bid was late solely as a result of government mishandling, it must be established that the agency had been given some notice concerning the bid prior to the time set for bid opening. Nuaire, Inc., B-221551, supra.

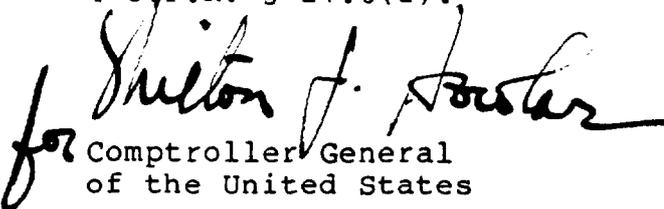
Here, the record shows that the Postal Service delivered the notice slip for Allstate's bid package to the Navy's receiving facility on the morning of January 7. Since the Postal Service normally delivers mail between 9:00 and 11:30 a.m., the Navy should have received notice at least 2 1/2 hours before the 2:00 p.m. bid opening. Nonetheless, although the receiving facility and the bid opening room are both at the Washington Navy Yard, the Navy did not arrange to pick up Allstate's bid package until January 8, the day after bid opening, more than 24 hours after receiving the notice.

There is no indication that the Navy had any procedures to ensure the timely transmission of a bid being held at the post office, or to provide prompt attention to a notice-of-arrival slip for a package addressed to the bid opening location. Such procedures were especially needed here because of the Navy's arrangement with the Postal Service that any package addressed to the bid opening location would be delivered to the local post office as an intermediary stop. Time necessarily would transpire before the post office could issue a notice-of-arrival slip and

deliver it to the Navy. It therefore was essential that the Navy have procedures to prevent any unreasonable delay in transmitting the notice-of-arrival slip and picking up the package.

We find the Navy's failure to employ any reasonable procedures to assure the timely receipt of a bid held at the post office the day before bid opening, where the Navy had notice of the bid's being held, was unreasonable and was the paramount reason Allstate's bid was late. Federal Contracting Corp., 56 Comp. Gen. 737, supra; see also 49 Comp. Gen. 697 (1970). We therefore sustain Allstate's protest.

We have been advised by the Navy that the awardee, Gelco Municipal Services, has placed orders with the vehicle manufacturer. Termination of the contract for the government's convenience therefore would be inappropriate because of the substantial costs of termination. We recommend, however, that no options be exercised under Gelco's contract and that the Navy institute procedures to assure the timely transmission of bids from the post office to the installation for future procurements. We also conclude that the protester is entitled to the reasonable costs of preparing its bid and to the costs of filing and pursuing its protest. Bid Protest Regulations, 4 C.F.R. §§ 21.6(d) and (e) (1986); Microflect, B-225118, Feb. 17, 1987, 66 Comp. Gen. \_\_\_\_, 87-1 CPD ¶ 173. Allstate should submit its claim for such costs directly to the agency. 4 C.F.R. § 21.6(f).

*for*   
Comptroller General  
of the United States