



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Bay Shipbuilding Corporation
File: B-240301
Date: October 30, 1990

J. Stephen Lawrence, Jr., Esq., for the protester.
Linda M. Higgins, U.S. Department of Transportation, for the agency.
Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where bidder sent bid by U.S. Postal Service Express Mail only 1 working day before bid opening; bid arrived at government installation only approximately 6 hours before bid opening; and installation's normal mail delivery procedures would not have assured timely delivery to bid opening room, reason for late receipt of bid in bid opening room was bidder's failure to allow sufficient time for delivery, not government mishandling; accordingly, the bid was properly rejected as late.
2. Late bid may not be considered on ground that agency failed to respond to protester's inquiry confirming whether agency received its bid before bid opening; agency does not have a duty to inform protester about arrival of its bid.
3. Competition was adequate, even where only one bid is timely received, where there is no evidence or allegation that the bid price was unreasonable, since all interested firms had opportunity to compete, and bid was submitted under threat of competition.

DECISION

Bay Shipbuilding Corporation protests the Coast Guard's rejection of its bid as late under invitation for bids (IFB) No. DTCG80-90-B-100127, for the dockside repair of the Coast Guard Cutter Mackinaw. The bid was rejected because it was not received at the bid opening room until the morning after the scheduled opening.

We deny the protest.

The IFB required that bids be received in a specified room by 2 p.m., Monday, June 25, 1990. Bay submitted its properly addressed bid package to the U.S. Postal Service for Express Mail delivery on Friday, June 22. The Postal Service attempted to deliver Bay's bid package on Saturday, June 23 but was unable to do so since the installation's mail room is not open on Saturdays. The Postal Service was able to deliver the bid on Monday, June 25, the bid opening date, at 7:45 a.m. A mailroom employee signed for the Express Mail package and placed it in a box to be picked up by personnel from the procurement office designated on the package label. On the same day, at 11:30 a.m., Bay called the agency and left a message requesting confirmation that its bid had timely arrived at the bid opening room, but the agency did not return the call. The Coast Guard reports that the normal delivery procedure for Express Mail received at the installation's mailroom is designed to result in delivery to the office designated on the envelope between 1 p.m. and 2:30 p.m. on the day it arrives in the mailroom.

Bid opening occurred on June 25 as scheduled. Only one bid was received, from Merce Industries, at \$1,175,104. Bay's bid package was not delivered to the bid opening room until 9:37 a.m. on June 26. Bay's bid was therefore rejected as late. (The agency has not opened the bid but Bay states that it was \$344,512 lower than Merce's bid.)

Bay contends that the cause for late receipt of its bid at the bid opening room was mishandling by the Coast Guard and that its bid should therefore be considered for award. Specifically, Bay argues that if the agency had followed its normal Express Mail procedures in delivering Bay's bid to the room designated on the bid package, Bay's bid may have been delivered by the 2 p.m. bid opening deadline. In Bay's view, mishandling is clearly evidenced by the fact that the bid ultimately was delivered to the opening room 26 hours after receipt in the mailroom, clearly contrary to normal delivery procedures.

A bid received in the office designated for the receipt of bids after the time set for bid opening is a late bid. Federal Acquisition Regulation (FAR) § 14.304-1. Late mailed bids received before award are proper for consideration where it can be determined that the late receipt was due solely to mishandling by the government after receipt at the government installation. FAR § 14.304-1(a)(2); see West End Welding and Fabricating, B-225427, Dec. 31, 1986, 86-2 CPD ¶ 724. However, bidders must allow a reasonable time for bids to be delivered from the point of receipt to the location designated for receipt of bids; when they do not do so, late arrival at

the designated location cannot be attributed to government mishandling. Weather Data Servs., Inc., B-238970, June 22, 1990, 90-1 CPD ¶ 582.

Mishandling was not the cause of the lateness of Bay's bid. Although the Coast Guard had an established Express Mail procedure which ordinarily would provide for prompt delivery after receipt in the mailroom, and it is not clear why Bay's package was not delivered promptly, this procedure is not designed to assure delivery of packages by 2 p.m. on the day of receipt in the mailroom. Rather, the procedure only provides for delivery between 1 and 2:30 p.m. Accordingly, even if Bay's bid had been delivered to the bid opening room on June 25, the same day it arrived in the mailroom, it still might not have been received in the bid opening room prior to bid opening.

The lateness of Bay's bid clearly is attributable to the fact that the bid was not delivered to the government installation until the day of bid opening. It is fundamental that bidders are solely responsible for ensuring the timely arrival of their bids and must bear the responsibility for late arrival. Goodwin Contractors, B-228336, Dec. 17, 1987, 87-2 CPD ¶ 604. By waiting until 1 government working day prior to bid opening to mail its bid, Bay accepted the risk that upon arrival the installation's delivery procedures would not guarantee delivery prior to the 2 p.m. bid opening on the next business day. This risk did not shift to the government by virtue of the presence of a delivery procedure that might have resulted in timely delivery of its bid. In fact, it does not appear that Bay relied on the installation's Express Mail delivery procedure; Bay's protest does not indicate that it was even aware of the procedure when it engaged the Postal Service to deliver its bid only 1 working day before bid opening (Friday, June 22).^{1/}

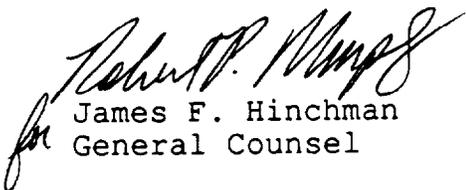
Bay contends that by failing to return Bay's phone call before 2 p.m. to inform Bay that its bid had not yet arrived in the bid opening room, the agency did not take any steps to ensure timely arrival of Bay's bid, and thereby failed to ensure full and open competition. However, there is no duty on the part of an agency to inform a bidder about the arrival of its bid, and a contracting officer's failure to respond to an inquiry about a bid's arrival therefore is not a ground for

^{1/} The protester has neither stated nor provided evidence that the Express Mail package was marked as containing a bid or that it indicated the bid opening time. In the absence of such information, mailroom personnel had no reason to expedite delivery of Bay's bid to meet the 2 p.m. bid opening deadline.

consideration of a late bid. Goodwin Contractors, B-228336,
supra.

Bay maintains that the Coast Guard should consider its bid for award in any case, since only one timely bid was received. However, there can be adequate competition even where only one reasonably priced bid is received under the threat of competition. Survivair div. of U.S.D. Corp., B-215214, Dec. 3, 1984, 84-2 CPD ¶ 600. The mere fact that Bay's price was lower than Merce's does not establish that Merce's price was unreasonable, and the agency apparently considers Merce's price reasonable.

The protest is denied.


for James F. Hinchman
General Counsel