



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: International Creative and Training, Ltd.

File: B-258543

Date: January 27, 1995

Clark Bannert, Jr., for the protester,
Col. Riggs L. Wilks, Jr., and Capt. Elizabeth DiVecchio
Berrigan, Department of the Army, for the agency.
Katherine I. Riback, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Agency properly rejected as late a bid sent by U.S. Postal Service Express Mail Second Day Service 1 working day before bid opening and delivered to the government installation approximately 2-1/2 hours prior to the scheduled bid opening, where the mailing label of the outer Express Mail envelope received by the agency was not marked as containing a bid, with the result that the bid was delivered by the agency's regular internal mail delivery and arrived at the bid opening room after bid opening.

DECISION

International Creative and Training, Ltd. (ICT) protests the rejection of its bid as late under invitation for bids (IFB) No. DAHC77-94-B-0063, issued by the Department of the Army for the operation of a training support center at the Schofield Barracks, Hawaii. The protester contends that the late receipt of its bid was the result of government mishandling.

We deny the protest.

The IFB, issued on August 10, 1994, scheduled bid opening for September 9. The solicitation directed bidders to address their bids to: U.S. Army Garrison-Directorate of Contracting/Bldg. 520 Basement, Pierce St./Attn: APVG-GKC/Ft. Shafter, Hawaii, 96858-5025. The cover sheet of the solicitation instructed bidders to plainly write the solicitation number, and the date and local time set for bid opening, on the outside of the bid envelope. The agency also provided a sticker for this purpose in the solicitation

package, with the intent that the bidder would write the requested information on the sticker and affix the sticker to the outside of the envelope that contained the bid. The agency issued amendment No. 2 to the IFB on September 2, which made certain revisions to the IFB and extended the bid opening until September 12, 10 a.m. Hawaii Standard Time.

ICT mailed its bid by U.S. Postal Service Express Mail, Second Day Service on Friday, September 9.¹ The protester addressed the outside Express Mail envelope to the mailing address provided in the IFB. On the Express Mail envelope, under the square provided for the mailing address, the protester printed "SEALED BID ENCLOSED." These words were printed in an area of the label that contained no carbon, therefore they appeared only on the top copy of the mailing label, which was retained by the Postal Service as proof of delivery. As a result, the copy of the mailing label on the Express Mail envelope that went to the agency contained no indication that it contained a sealed bid.

The agency mail clerk signed for and picked up ICT's Express Mail envelope at 7:30 a.m. on the morning of bid opening day. Since nothing on the envelope placed the mail clerk on notice of the need for immediate delivery, he followed standard distribution procedures by returning to the agency mail and distribution facility and turning over all accountable mail, including ICT's bid, to the accountable mail section for registration and processing. The agency states that the mail and distribution branch makes two mail runs daily to the Directorate of Contracting, one around 10 a.m. (primarily for pick-up of outgoing mail), and one around 1 p.m. The Express Mail envelope containing ICT's bid was delivered to the bid opening location at 10:12 a.m., 12 minutes after bid opening.² Consequently, the bid was rejected as late.

ICT contends that government mishandling was the primary cause of the late receipt of its bid because the bid was received at the agency facility prior to bid opening but the

¹ICT placed its bid in an envelope with the information sticker pasted on it which included the solicitation number, the date and time of bid opening, and which identified the contents as a bid. The information on this envelope, however, was not visible because the bid envelope was placed inside a U.S. Postal Service Express Mail envelope for delivery.

²The agency states that accountable mail is given special handling in that it is delivered to and signed for by the addressee.

agency personnel failed to immediately deliver the bid to the bid room.

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. It is the responsibility of the bidder to deliver its bid to the proper place at the proper time, and late delivery generally requires that a bid be rejected. See Alpha Technical Servs., Inc., B-243322; B-243715, July 15, 1991, 91-2 CPD ¶ 56. Late mailed bids received before award may be considered where it can be determined that the late receipt was due solely to mishandling by the government after receipt of 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. Environmental Systematics of Minnesota, Inc., B-247518, Apr. 23, 1992, 92-1 CPD ¶ 388.

In this case, we find no government mishandling. The record shows that the mailing label of the Express Mail envelope delivered to the agency was not marked, as instructed in the IFB, as containing a "Sealed Bid" with the solicitation number and the time and date set for bid opening. In the absence of such information, the mail room had no reason to expedite delivery of ICT's bid to meet the 10 a.m. bid opening deadline, and delivery by the next scheduled mail run was reasonable.³ In this regard, where a bid or proposal is placed in an Express Mail envelope or pouch provided by the Postal Service for overnight delivery, the information required by the solicitation to be shown on the envelope as to the solicitation number and date and time by which bids must be received may no longer be apparent, as is the case here, from the outer envelope. We do not view the envelope's pre-printed instructions for the Postal Service to rush delivery as sufficient to put the agency's mail office on notice that the Express Mail envelope contained a bid. Id. Accordingly, there was no government mishandling as the bidder's failure to assure that this required

³The agency provided a statement by the supervisor of the agency's mail and distribution branch, who stated that if ICT had identified the contents of the envelope as a bid that was due at the Directorate of Contracting by 10 a.m. that same day, then the mail office would have assured delivery before the time set for bid opening.

information was on the outer envelope was a paramount cause for the delay in delivery. See Barnes Electric Co., Inc., B-241391.2, Jan. 4, 1991, 91-1 CPD ¶ 10.

The protest is denied.

For 
Robert P. Murphy
General Counsel