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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: C2G Ltd. Company

File: B-411131

Date: May 12, 2015

Katherine S. Nucci, Esq., Thompson Coburn LLP, for the protester.
Timothy J. Ryan, Esq., and Janet R. Wise, Esq., Defense Logistics Agency, for the agency.
Evan D. Wesser, Esq., and Jonathan L. Kang, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging an agency's non-acceptance of a revised bid submitted during a reverse auction is denied where the record demonstrates that the agency did not receive the revised bid prior to the closing time for the reverse auction.

DECISION

C2G Ltd. Company, a small business, of Goose Creek, South Carolina, protests the non-acceptance of its revised bid submitted during a reverse auction under request for proposals (RFP) No. SP3300-15-R-0005, issued by the Defense Logistics Agency (DLA), for scheduled and unscheduled maintenance services on government-owned equipment located at DLA Distribution Red River, Texas.¹ C2G contends that the reverse auction system utilized by the agency malfunctioned when it did not accept the protester's revised bid submitted with approximately one second left during the auction.

We deny the protest.

¹ DLA represented that no award was made in response to the RFP during the pendency of the protest. See Email from Agency Counsel (May 6, 2015) at 1.

BACKGROUND

The RFP, which was set aside for small businesses, was issued on November 12, 2014, and sought proposals for a time-and-materials contract for scheduled and unscheduled maintenance services for government-owned equipment, including material handling equipment and vehicles, located at DLA Distribution Red River, Texas. RFP at 3. The RFP anticipated the award of a contract with a base period of 1 year, and two 1-year options. Id. Award was to be made on a lowest-priced, technically-acceptable basis. Id., attach. No. 8, at 1.² The RFP also incorporated Defense Logistics Agency Directive clause 52.215-9023, Reverse Auctions (OCT 2013), which defines the agency's and offerors' respective obligations when the agency elects to conduct a reverse auction. RFP at 50.

On February 5, 2015, DLA invited prospective offerors to participate in a "mock" web-based reverse auction through a commercial, third party reverse auction system provider, Procurex, Inc. Representatives from C2G and another offeror participated in the mock auction. See Procurex Results for Mock Reverse Auction. On February 6, DLA conducted the actual reverse auction, again through the Procurex web-based system. The parties largely agree, with the exception discussed below, regarding the material events that occurred during the reverse auction.

The bidding period for the auction commenced at 9:00 a.m. eastern standard time (EST), on February 6, and was to end at 9:30 a.m. EST. See Procurex Email (Feb. 5, 2015) at 1. The reverse auction included an automatic extension provision that would trigger a 3-minute extension to the reverse auction in the event that a bid was successfully placed within the last minute of the auction, *i.e.*, after 9:29 a.m. EST. See id. at 2. The automatic extension would repeat until no additional bids in the last remaining minute of the auction were received. Id.

To successfully place a bid during the reverse auction, an offeror had to complete three steps. First, the offeror had to decrement its bid by at least \$1,000 less than the current lead bid submitted in the auction. See id.; Decl. of DLA Procurement Analyst (Feb. 20, 2015) at 2. Second, the offeror was prompted to preview and verify its bid. Procurex Email (Feb. 5, 2015) at 2. When an offeror successfully previewed its bid, the system upon receipt would record the completed transaction as "Successful Click of Preview Bid Button." See Procurex Results for Reverse Auction at 1. Finally, the offeror had to click on the "place bid" prompt generated by

² A proposal was acceptable if it: (i) addressed all essential requirements of the RFP; (ii) showed that the offeror understood, and had the capability to perform, all essential requirements of the RFP; (iii) demonstrated an acceptable past performance record; and (iv) was complete to the extent that award could be made on its present terms. RFP, attach. No. 8, at 1.

the system after the offeror successfully previewed its bid. Procurex Email (Feb. 5, 2015) at 2. When an offeror successfully placed its bid, the system upon receipt would record the completed transaction as “Successful Bid Placed.” See Procurex Results for Reverse Auction at 1. Prior to C2G’s final bid, the offerors took between 5 and 15 seconds to successfully place their respective bids after previewing the bids, i.e., the time between when the system recorded that the offeror had successfully clicked the preview bid button (step two) and the time when the offeror successfully clicked the place bid button and the system acknowledged “Successful Bid Placed” (confirmation that step three was successful). See id.

C2G and the other offeror that participated in the mock auction also participated in the actual reverse auction. At 9:04:34 a.m. EST, C2G successfully placed a total bid of \$1,335,687 and became the “lead” bidder. See Procurex Event Bidding Detail Report at 4. At 9:28:55 a.m. EST, the other offeror successfully placed a total bid of \$1,294,725 and became the “lead” bidder. Id. Pursuant to the rules of the reverse auction, the auction was not automatically extended for three minutes because the other offeror’s bid was successfully placed with more than one minute left in the auction. See Decl. of DLA Procurement Analyst at 1-2.³ Within the remaining time, C2G input a revised bid that satisfied the minimum decrement requirement. See Decl. of C2G President at 4. The protester successfully previewed and verified its bid at 9:29:58 a.m. EST, or two seconds before the auction was scheduled to close. See Procurex Results for Reverse Auction at 2.

The parties disagree regarding what transpired next. C2G asserts that after previewing and verifying its bid, the system displayed the prompt for C2G to place its bid. C2G claims that it clicked the place bid prompt with one second left in the reverse auction, and thus the bid should have been received (i.e., successfully placed) by the reverse auction system. See Decl. of C2G President at 4; Decl. of C2G Chief Operating Officer (COO) (Feb. 25, 2015) at 1; Decl. of C2G Logistics Manager (Feb. 25, 2015) at 1. In contrast, DLA argues that C2G’s final bid was not received (i.e., not successfully placed) prior to 9:30 a.m. EST, as reflected by the system’s generation of an error message stating “Failure of Place Bid Button – Event has ended.” Procurex Results for Reverse Auction at 2. DLA represents that it conferred with Procurex’s owner and quality assurance lead, who confirmed that the system did not experience any malfunctioning during the reverse auction, and that Procurex did not possess any information that C2G attempted to submit a lower

³ C2G claims that the system did not reflect that the other offeror had successfully placed the bid overtaking C2G as the “lead” until 9:28:59 a.m. EST. Decl. of C2G President (Feb. 25, 2015) at 3. The parties’ disagreement regarding these four seconds is not material to the disposition of this protest because, in either case, the 3-minute extension would not have been triggered as the other offeror’s bid was successfully placed with more than one minute left in the auction.

priced bid within the last two seconds remaining in the auction. Decl. of DLA Procurement Analyst at 4. This protest followed.

DISCUSSION

C2G argues that the reverse auction system “must have malfunctioned when it failed to accept C2G’s revised prices, submitted with one second remaining in the bidding period, and failed to then extend the bidding period for an additional three minutes.” Protest at 5-6. For the reasons that follow, we deny the protest.

It is an offeror’s responsibility, when transmitting its proposal electronically, to ensure the proposal’s timely delivery by transmitting the proposal sufficiently in advance of the time set for receipt of proposals to allow for timely receipt by the agency. Alalamiah Tech. Grp., B-402707.2, June 29, 2010, 2010 CPD ¶ 148 at 3. Proposals that are received in the designated government office after the exact time specified are “late,” and generally may not be considered for award. While this rule may seem harsh in some circumstances, it alleviates confusion, ensures equal treatment of all offerors, and prevents one offeror from obtaining a competitive advantage that may accrue where an offeror is permitted to submit a proposal later than the deadline set for all competitors. Id.

In determining whether a proposal was submitted late, we consider all relevant evidence in the record, including statements by parties on behalf of the protester and the agency, to ascertain whether a preponderance of the evidence shows that the proposal was at the designated location for receipt prior to the time set for closing. Caddell Constr. Co., Inc., B-280405, Aug. 24, 1998, 98-2 CPD ¶ 50 at 6. In negotiated procurements, we have held that, unless it is shown to be unreasonable, the contracting official’s declaration that a procurement is closed is determinative. U.S. Aerospace, Inc., B-403464, B-403464.2, Oct. 6, 2010, 2010 CPD ¶ 225 at 9; Caddell Constr. Co., Inc., supra, at 8.

Here, we find that C2G has failed to establish that its revised bid was submitted to and received by DLA prior to the closing time for the reverse auction, or that the reverse auction system otherwise malfunctioned. As stated above, it is an offeror’s responsibility to ensure that an electronically submitted proposal is received by—not just submitted to—an agency prior to the time set for closing. It is undisputed that an offeror had to complete three steps in order to successfully place a bid during the reverse auction. It is also undisputed that the protester did not complete the second of the three required steps until there was only two seconds left in the reverse auction. Even assuming that the system generated the prompt for C2G to “place” its bid and the protester was able to click the prompt—all within the span of two seconds—there is no evidence that the revised bid was timely received by DLA.

DLA’s agent, Procurex, represented that C2G’s revised bid—allegedly submitted with one second left in the auction—was not received prior to the closing time.

Procurex Results for Reverse Auction at 2; Decl. of DLA Procurement Analyst at 4. The protester has submitted no evidence that the bid, which was “placed” (the third step in the three-step process) with one second left in the reverse auction, was actually received by the reverse auction system (i.e., successfully placed). In this regard, the protester represents that it contacted Procurex’s owner and quality assurance lead. C2G represents that the Procurex official stated that there is a lag time of a few seconds to fifteen seconds between when a bidder clicks the “place bid” button/link and the time when the system processes the bid because the system needs time to process the information inputted by the bidder and due to external factors, such as internet connections and bidders’ computer systems. Decl. of C2G COO at 1-2. We find this explanation to be consistent with common knowledge and experience that some delay is to be expected when data is transmitted across the internet and must be processed by a receiving database. It also is consistent with the fact that offerors took between 5 and 15 seconds to successfully place their bids after previewing them during the reverse auction. Therefore, we find no basis to challenge the reasonableness of DLA’s determination that C2G’s proposal was not received before the reverse auction’s closing time.

C2G also argues that DLA was required to disclose to offerors the potential lag time between the placing of a bid and when the system could process the data. See Response to Request for Dismissal (Feb. 25, 2015) at 5. We disagree. As noted above, we think the potential delay between entering data, transmitting the data across the internet, and the receiving system processing the data is readily apparent from common experience using the internet. Furthermore, an agency is not required to apprise offerors of every conceivable risk or obstacle they could face in submitting their proposals. Rather, as stated above, it is incumbent on an offeror to submit its proposal in a prompt and efficient manner to ensure timely delivery to, and receipt by, an agency. In this regard, we also note that the agency invited offerors to participate in a mock auction using the same system that was used for the actual reverse auction. The activity log for the mock auction similarly shows that offerors took several seconds between previewing and successfully placing their bids. See Procurex Results for Mock Auction at 1-2. Offerors therefore were afforded the opportunity to utilize the system that would be used in the reverse auction, and could, and should, have addressed any concerns regarding apparent lag times between previewing and successfully placing bids with DLA prior to the actual reverse auction.

The protest is denied.

Susan A. Poling
General Counsel