



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-178361

July 30, 1973

D.E.W., Incorporated
216 Herweck Drive
San Antonio, Texas 78213

Attention: Mr. Del Wurzbach
President

Gentlemen:

By letter dated April 23, 1973, and prior correspondence, you protested against acceptance of the late bid of, and award of a contract to, Wright Air Conditioning, Plumbing and Heating Company (Wright), under invitation for bids (IFB) No. F4.606-73-B-0079, issued on January 29, 1973, for certain air conditioning work at Randolph Air Force Base, Texas.

Bids submitted in response to the solicitation were opened as scheduled at 2:00 p.m. on February 28, 1973, and your firm was the low bidder. At 9:15 a.m. on March 2, 1973, Wright's bid, sent by certified mail, was received in the Procurement Division of Randolph Air Force Base. The postmark on the envelope indicated that it had been mailed on February 27, 1973, from Kansas City, Missouri. Since no award had yet been made and the bid had been transmitted by certified mail, the contracting officer advised Wright, pursuant to Armed Services Procurement Regulation 2-303.6 (a), to furnish certain information concerning the time of mailing to determine whether the bid was properly for consideration under ASPR 2-303.3, which provides in pertinent part:

(a) Circumstances Permitting Consideration for Award of a Late Mailed Bid. A late mailed bid received before award may be considered for award only if:

(1) it was sent by registered mail or by certified mail for which an official

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dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained, and it is determined that the lateness was due solely to a delay in the mails (based on evidence obtained pursuant to (b), (c), and (d)) for which the bidder was not responsible;

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(c) Certified Mail. The time of mailing of a late bid, mailed by certified mail for which a postmarked Receipt for Certified Mail was obtained shall be deemed to be the last minute of the date shown in the postmark on such receipt, except where ★ ★ ★

(ii) an entry in ink on the Receipt for Certified Mail, showing the time of mailing and the initials of the postal employee receiving the item and making the entry, is appropriately verified in writing by the post office, station of mailing, in which case the time of mailing shall be the time shown in the entry. ★ ★ ★

(d) Delivery Time. Information concerning the normal time for mail delivery shall be obtained by the procuring activity from the postmaster, superintendent of mails, or a duly authorized representative for that purpose, of the post office serving that activity. When time permits, such information shall be obtained in writing. (Underlining supplied.)

The record indicates that Wright furnished the necessary documentation establishing that its bid was mailed by certified mail from the South Troost Station, Kansas City, Missouri, at 8:30 a.m., February 27, 1973. Furthermore, the United States Postal Service at Universal City, Texas, the "post office serving that activity [Randolph Air Force Base]" was contacted and the Postmaster acknowledged that Wright's bid could normally have been received at Randolph Air Force Base, Texas, by 11:00 a.m.,

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February 28, 1973. Accordingly, the contracting officer determined pursuant to ASPR 2-303.3(a)(1) that Wright's late bid was properly for consideration because it was sent by certified mail and "the lateness was due solely to a delay in the mails (based on evidence obtained pursuant to (b), (c) and (d)) for which the bidder was not responsible." Wright's bid was lower than yours and it received award of the contract.

In these circumstances, it is our conclusion that Wright's bid was properly for consideration under applicable regulations. Accordingly, there is no basis for our Office to disturb the award.

Sincerely yours,

E. H. Morse, Jr.

For the Comptroller General
of the United States