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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Mitchell Roofing & Contracting

File: B-290462

Date: June 25, 2002

Tom Wright for the protester.

Vera Meza, Esq., U.S. Army Materiel Command, for the agency.

Paul E. Jordan, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where record shows that agency misread electronic version of awardee's bid as incomplete at the time of bid opening, and that, in fact, complete bid was received prior to bid opening time, there is no basis for questioning agency's award decision.

DECISION

Mitchell Roofing & Contracting protests the award of a contract to Petticoat Construction Inc. under invitation for bids (IFB) No. DAAE24-02-B-0002, issued by the Department of the Army, as a section 8(a) set-aside, for re-roofing a building at Anniston Army Depot, Alabama. Mitchell asserts that the award was improper because Petticoat did not submit a timely complete bid.

We deny the protest.

The IFB required the submission of electronic bids by 10:00 a.m. on January 28, 2002. Petticoat submitted a telefacsimile (faxed) bid by this time, but when the agency viewed it electronically, it appeared that the bid consisted only of two pages, and that the third page--containing the bid schedule--had not been submitted. Thus, no price was recorded for Petticoat at bid opening. Thereafter, the low bidder withdrew its bid due to a bid mistake, and the apparent second-low bid was eliminated because the bidder was not an eligible 8(a) contractor. Since Mitchell's bid appeared to be next low, the agency obtained responsibility information from the firm. Prior to making the award to Mitchell, however, the agency printed out all of the electronic bids. When it did so, it found that Petticoat's bid had in fact included a complete bid schedule showing a bid of \$333,600. Since this price was lower than Mitchell's bid of \$392,380, the agency awarded Petticoat the contract.

Mitchell asserts that Petticoat's bid was nonresponsive because it was incomplete and late. As support, Mitchell relies on agency computer printouts, which allegedly contain inconsistent time stamps and indicate that Petticoat's bid contained too few pages to be complete.

The record clearly establishes that Petticoat submitted a timely and complete bid. The agency explains that bids such as Petticoat's faxed bid were received via software in a secured computer server at the agency, and were then copied to a portable document file (PDF) for use at bid opening. Contracting Officer's Statement (COS) ¶ g.1. A printout of the agency's computer log (Protester's exh. 2) shows that the agency received a two-page fax from Petticoat's telephone number on the bid opening date at "9:29: AM"--that is, more than 30 minutes before the 10:00 a.m. bid opening time--and the firm's bid in PDF form (Agency Report (AR), attach. 2) was publicly "opened" with the other bids at bid opening. COS ¶ g.2.b. Thus, there is no question that Petticoat's bid was timely received.¹ Mitchell cites the fact that the printout of the PDF version of Petticoat's bid reflects a time of "09:36 AM" (Protester's Response ¶ 7), as an inconsistency that raises doubt as to whether the bid was timely received. This argument is without merit. This entry time is well before the 10:00 a.m. bid opening time, and less than 7 minutes after the receipt time shown for the fax. This time difference seems fully consistent with the amount of time the agency would need to copy the bid in PDF form prior to bid opening, as is its practice.

With regard to the completeness of Petticoat's bid, the agency printout clearly shows that all three pages were included with the bid.² AR, attachs. 2-3. The confusion was caused, it appears, by the computer's reading the last two faxed pages as a single page. The agency explains that, since only two pages were shown as having been received when it initially read the bid, it did not bother to scroll down further after seeing that the second page was not the bid schedule--this would have revealed the

¹ Mitchell also points to the fact that the printout shows a fax received from Petticoat after the bid opening time. It is plain, however, that this record concerns a different, 12-page bid. Mitchell's reliance on this other entry stems from a photocopy of the printout on which the highlighted bid receipt line appears as an unreadable black line. AR, attach. 1. The agency subsequently provided another copy of the document, which clearly shows both a 2-page fax as having been received prior to the 10:00 a.m. bid opening time, and a 12-page fax received after 10:00 a.m.

² Mitchell questions whether Petticoat's three-page bid contained all appropriate certifications at the time of bid opening. Protester's Response ¶ 4. The agency explains that it received Petticoat's original bid bond prior to bid opening, COS ¶ g, and there is no evidence that any other part of Petticoat's bid was not timely received by the agency.

attached third page. COS ¶ g.2.b. Instead, the agency assumed at that point that no bid schedule page was received. The agency's mere failure to read the entire bid is not a basis for finding that the bid was not timely received. We find the documentary evidence, together with the agency's explanation, clear evidence that Petticoat's bid was received prior to bid opening, and was complete. Mitchell has provided no evidence that shows otherwise. Accordingly, there is no basis for questioning the award.³

The protest is denied.

Anthony H. Gamboa
General Counsel

³ The fact that Mitchell was led to believe it was in line for award, and expended additional time and expense in providing responsibility information to the agency, provides no basis for relief.