



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

B-178984

October 30, 1973

40149

Alpine Aircraft Charters, Inc.
6200 Plazasu Drive
Englewood, Colorado 80110

Attention: Mr. Jesus J. Hernandez
Executive Vice President

Gentlemen:

We refer to your affidavit of July 6, 1973, with enclosures, and prior correspondence, protesting the refusal of the National Aeronautics and Space Administration (NASA) to consider your bid for award under invitation for bids (IFB) 9-BB52-52-3-521, issued on June 1, 1973.

The invitation provided that bids would be received until 3:00 p.m., local time, on June 22, 1973, at Room 112, Building 226, Lyndon B. Johnson Space Center, and there publicly opened. Your bid is reported to have been submitted after that time or 3:04 p.m. It was determined by the contracting officer that your late bid was unacceptable for award and that it should be disposed of in accordance with NASA Procurement Regulation 2-303.7. Under that regulation, such a late bid is retained unopened until after award and then returned to the bidder.

It is your contention that the late receipt of your bid was occasioned solely by Government mishandling of your bid after it was on the installation. You allege that "extraordinary delay caused by Government personnel" occurred when your agent attempted to secure a pass to enter the installation so as to deposit the bid. Since the delay incident to securing the pass resulted in the late submission of your bid, you contend that the bid should be regarded as timely filed.

Alpine's courier states that he arrived at the NASA gate at 7-1/2 minutes before 3:00 p.m. He then attempted to deliver the bid to the security guard at the gate. The guard instructed the courier to first go to the Security Control Center for proper registration. After registering, the courier was then sent to the bid opening office. The entire process, from entry into the installation to completion of security registration, took approximately six minutes. It then took four more minutes to reach the appropriate room for bid opening.

[Protest Alleging Agency Refused To Consider Bid]

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We stated in our decision H-174401, February 7, 1972:

"It has been consistently held that it is the responsibility of bidders to see that their bids reach the designated office before the time fixed for the opening of the bids. The purpose of the requirement is to give all bidders an equal opportunity, to prevent fraud, and to preserve the integrity of the competitive bid system.

"Under the express terms of the invitation, hand carried bids were required to be submitted prior to 10:00 a.m. Your bid was not submitted prior to the time specified. Your lack of knowledge of the other bids and good faith are, under the circumstances, not for consideration. There must be a time after which bids may not be received, and to permit such considerations to affect or alter the fixed and exact time clearly stated in an invitation would, in our opinion, tend to weaken the competitive system. While the requirement in certain instances may operate harshly any relaxation of the rule would inevitably create confusion and disagreements as to its applicability in many cases and facilitate the perpetration of frauds."

We have consistently taken the position that the rules and regulations governing procedures for bid opening must be strictly construed and enforced. As stated repeatedly in the decisions of our Office, we believe that maintenance of confidence in the integrity of the competitive bidding system is of much greater importance than a monetary saving in an individual procurement.

Upon examination of the facts in the case at hand, it appears to us that the significant cause of the delay was the failure of Alpine's courier to provide sufficient time to reach the bid opening office by the time specified. The courier knew that bids were not to be deposited with a gate guard and he should have anticipated some delay to gain entry to the NASA compound. A delay of only six minutes for registration does not seem to be an "extraordinary delay caused by Government personnel" to provide a basis for relief from the bid opening time requirement. Alpine's courier was not misdirected as to where to go nor was he treated in a manner different from others seeking entrance to the space center. Further, registration by the NASA Security Force for access to the Government installation is not unique to the Johnson Space Center. Such procedures are a common practice throughout similar Government as well as commercial installations.

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Therefore, Alpine should have been aware that some delay for security registration would occur. Moreover, there is no regulatory requirement that solicitations contain advice of possible delays in bid delivery due to security controls.

Therefore, as the late delivery of the bid was the fault of the bidder's agent, your bid was properly rejected as untimely. Under these circumstances, we find no reason to disagree with the administrative action taken. Accordingly, your protest is denied.

Sincerely yours,

Paul G. Dembing

For the Comptroller General
of the United States