



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: C.R. Hipp Construction Co., Inc.

File: B-274328

Date: November 20, 1996

Al Hitchcock for the protester.

Peter M. Kushner, Esq., Diane D. Hayden, Esq., and George N. Brezna, Esq.,
Department of the Navy, for the agency.

Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General
Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where the bid opening officer receives a mailed bid from the agency mail clerk while he was walking en route from the building's foyer (where he declared that no more hand-carried bids would be accepted) to the bid opening room, bid was properly considered as timely received by the agency where solicitation did not designate particular office for receipt of bids and bid was received in the mailroom prior to the declared bid opening time.

DECISION

C.R. Hipp Construction Co., Inc. protests the award of a contract to Ely Energy, Inc. under invitation for bids (IFB) No. N62467-95-B-0784, issued by the Department of the Navy, Southern Division, Naval Facilities Engineering Command, Charleston, South Carolina, to provide and install a propane/air system, including propane storage tanks, at a military facility. Hipp contends that Ely's bid should have been rejected as late.

We deny the protest.

Bid opening was scheduled for 2:30 p.m. on June 13, 1996. At approximately 2:15 p.m., the bid opening official arrived in the main foyer of the agency's building to meet any bidders, accept hand-carried bids, and keep the bidders in the foyer until bid opening time. The facility is a secured access building and the main foyer entrance is the only point of building entry for bidders. At 2:30 p.m., the bid opening official announced in the foyer that "it is now 2:30 and no more hand carried bids will be accepted." He then began to escort bidders to the bid opening room where the bid box is kept. En route to the bid opening room, approximately 1 minute after he had announced that no more hand-carried bids would be accepted, he encountered a Southern Division mailroom clerk who handed him a

mailed bid received at the mailroom. Recognizing that the envelope contained a bid, the bid opening official accepted the envelope from the agency mail clerk and continued to walk to the bid opening room. Once there, and several minutes later, he opened the bid box, the other bids were removed, and he proceeded with bid opening. Ely's bid was low. The agency initially considered Ely's bid as late but subsequently determined that Ely had submitted a timely bid. This protest followed from Hipp, the second low bidder.

The agency properly considered Ely's bid. The Federal Acquisition Regulation (FAR) requires that bids be submitted and received in the "office designated in the invitation for bids . . . not later than the exact time set for opening of bids." FAR § 14.302(a); see also § 14.304-1. The "office designated" typically is a specific location of the office responsible for the ultimate receipt and safeguarding of the bids. That location usually will be identified by name, see, e.g., Adrian Supply Co., B-243904; B-243904.2, Aug. 7, 1991, 91-2 CPD ¶ 140 ("Operational Contracting Division"); Cost Bros., Inc. and Lori Waterproofing, Inc., B-213257 et. al., Apr. 24, 1984, 84-1 CPD ¶ 469 ("Chief, Purchase & Contracting Section (90C)"), by code or symbol, see, e.g., Nuaire, Inc., B-221551, Apr. 2, 1986, 86-1 CPD ¶ 314 ("VA Medical Center 648/90f"), or by room number. See Larry J. Robinson & Co., Inc., B-234991, June 13, 1989, 89-1 CPD ¶ 559 ("Rm C-121"). In such cases, receipt by the agency's mailroom or other receiving facility does not constitute receipt by the "office designated" in the IFB for receipt of bids. LectroMagnetics, 56 Comp. Gen. 50 (1976), 76-2 CPD ¶ 371. See also Adrian Supply Co., supra (an APO address is "an intermediate stop in transit" and thus receipt of a bid at that address does not constitute receipt at the designated location, the "Operational Contracting Division").

In some cases, however, agencies do not identify a specific office or location for receipt of mailed bids—the designated office is simply the agency's generic address. In these cases, there is no "office designated in the invitation for bids" other than, in effect, the agency's point of receipt; this means that a bidder's obligation to submit its bid so that it is received in the "office designated . . . not later than the exact time set for opening of bids" is satisfied if the bid is received at the agency's point of receipt by the bid opening time.

Here, the agency explains that it views Ely's bid as timely received because the IFB did not identify a specific location for receipt of mailed bids, all of the Southern Division including its mailroom is located in one building and its practice is to "receive and date time stamp mailed bids in the mail room" and then deliver them

to the procurement office or directly to the bid box in the bid opening room, and Ely's bid was received in the mailroom at 2:28 p.m.¹

We see no reason to disagree with the agency. Since the IFB did not designate a specific location within the agency for bids to be received, the agency's practice of considering receipt as occurring at its mailroom under these circumstances is reasonable and not inconsistent with any provision of the FAR. Moreover, it is not apparent how consideration of Ely's bid in these circumstances would adversely affect the competitive bid system--the cutoff point for both mailed and hand-carried bids such as the protester's is exactly the same.² Accordingly, we consider Ely's bid to have been timely received and its acceptance to be proper.

The protest is denied.

Comptroller General
of the United States

¹The bid was stamped in at 2:32 p.m., but the agency determined that the mailroom clock was 4 minutes fast when compared to the clock used to determine the bid agency time, which had been set shortly before bid opening to Naval Observatory.

²While it is possible that in some instances a bid timely received in the agency's mailroom will not be delivered to the bid opening room in time for the public bid opening, that is not an impediment to viewing the bid as having been timely received. The procurement regulations and our decisions permit, under appropriate circumstances, consideration of bids that were not available at bid opening. See FAR § 14.304-1; Lockley Mfg. Co., Inc., 59 Comp. Gen. 189 (1980), 80-1 CPD ¶ 15.