

DECISION

95278
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

40957

FILE: B-181021

DATE: July 17, 1974

MATTER OF: Astro Development Laboratories, Inc.

DIGEST: Telegraphic bid modification which, if acceptable, would make bid low may not be considered since it was received in office designated in IFB after bid opening and there is no indication in record of Government mishandling.

Invitation for bids (IFB) N00167-74-B-0047 was issued by the Naval Ship Research and Development Center, Bethesda, Maryland, for a quantity of syntactic foam block.

The four bids received in response to the IFB were publicly opened at the appointed time, 2:00 p.m., eastern time, on March 29, 1974. The bid of Astro Development Laboratories, Inc. (Astro), was the third highest of the four received. On March 29, 1974, at 10:30 p.m., a telegraphic modification of Astro's bid was received by the Communication Office of the Naval Ship Reserach and Development Center. The modification, if proper for consideration, would make Astro's bid the lowest.

On April 1, 1974, award was made to Lockheed Missiles and Space Company, Inc.

By letter dated April 2, 1974, the contracting officer advised Astro of the late receipt of the telegraphic modification and that under the circumstances it could not be considered. The telegram containing the modification was dispatched from El Segundo, California, at 7:18 p.m., eastern daylight time on March 28, 1974, and arrived at the Navy Communication Station, Cheltenham, Maryland, at 4:13 p.m., eastern daylight time on March 29, 1974. It was relayed by the Communication Station to the Communication Office of the Naval Ship Research and Development Center where it arrived on March 29 at 10:30 p.m.

The IFB included "Modifications To Solicitation Instructions and Conditions" which preclude consideration of late telegraphic bid modifications unless received prior to award and late receipt was due solely to mishandling by the Government after receipt at the installation. As stated in B-174528, January 12, 1972, "The

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decisions of this Office have consistently held that the bidders must bear the responsibility of the late arrival of a bid or a modification thereof. 46 Comp. Gen. 13 (1966); 50 Comp. Gen. 76." Since the record indicates that notice of the telegraphic modification was not received by the Government communications activity until after 4:00 p.m., or after the 2 p.m. bid opening, there is no question of mishandling on the part of the Government. Consequently, there was no basis to consider the late telegraphic modification of Astro's bid.

R. F. Hutton
Deputy Comptroller General
of the United States