



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Casey & Glass, Inc.--Reconsideration

File: B-222132.2

Date: July 28, 1986

DIGEST

Decision is affirmed on reconsideration where firm requesting reconsideration fails to establish the existence of an error of law or fact in the decision.

DECISION

Casey & Glass, Inc. (C&G) requests that we reconsider our decision in Bracco Construction Co., B-222132, May 5, 1986, 85-1 C.P.D. ¶ 433, in which we sustained Bracco Construction Company's protest of the award of a contract to C&G under invitation for bids (IFB) No. N62467-81-B-0812, issued by the Department of the Navy for a cold storage warehouse at the Naval Air Station, Corpus Christi, Texas. We found that the Navy improperly rejected Bracco's bid as late, and we recommended that the Navy terminate C&G's contract for convenience and award a contract for the requirement to Bracco. C&G alleges that Bracco's bid in fact was late.

We affirm our decision.

The IFB originally scheduled bid opening for 3 p.m. on December 3, 1985. By amendment 0002, the Navy, among other things, rescheduled bid opening to December 17. The amendment, however, contained a clerical error, stating that bid opening was postponed "from 2:30 p.m." on December 3 to 2:30 p.m. on December 17. Personnel at the facility, recognizing the error in the amendment, proceeded to conduct the December 17 bid opening at 3:00 p.m., the customary time for bid opening at the facility.

Bracco, the second low bidder, was in line for award after the low bidder withdrew from the competition because of an error in its bid. C&G then protested to the Navy against the acceptance of Bracco's bid, claiming that Bracco submitted its bid at 2:33 p.m., 3 minutes late. Thereafter, the Navy notified Bracco that its bid would not be considered and awarded to C&G.

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Bracco protested to our Office that its bid was not late, contending that although it submitted the bid prior to 2:30 p.m., Navy personnel, acting under the erroneous assumption that bid opening was at 3 p.m., presumed they had half an hour until the bid opening and, therefore, were slow in their handling of Bracco's bid, resulting in the bid being stamped late. The Navy, noting that Bracco's time/date stamped bid envelope was lost, attested to the veracity of Bracco's explanation and recommended that we sustain Bracco's protest. Based on a preponderance of evidence in the record indicating that Bracco's bid was submitted to Navy personnel before bid opening, we sustained Bracco's protest.

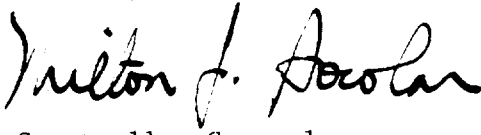
In requesting reconsideration, C&G states that the bid receipt room is located in a part of the Navy facility separate from the bid opening room. C&G argues that while Bracco may have been in the bid opening room before 2:30 p.m., this does not refute C&G's allegation that Bracco entered the bid receipt room after 2:30 p.m. and submitted its bid. C&G's argument, however, does not warrant reversing our decision. The issue is not in which room Bracco was located at the time designated in the solicitation for bid opening but, as we stated in our decision, whether Bracco surrendered control of its bid to government contracting personnel by that time. We considered this issue in our original decision and concluded that Bracco's bid was submitted timely to Navy contract personnel prior to the time set for bid opening.

C&G next argues that Bracco's submission of its bid before the actual bid opening is immaterial because bid opening was conducted 30 minutes after the time designated in the solicitation. According to C&G, our decision stands for the proposition that the time designated in the solicitation for the receipt of bids is not controlling over "customary" times. There is no merit to C&G's argument. The fact that bid opening was conducted 30 minutes late was of no consequence to our finding. Our decision is clear that, based on a preponderance of evidence, Bracco's bid was submitted timely to Navy contracting personnel prior to the time set in amendment 0002 for bid receipt--2:30 p.m.--not just the actual bid opening time of 3 p.m.

Finally, C&G believes that, based on a statement in the Navy's report, it may not have been furnished all of the documents on which our decision was based. C&G is incorrect, however, since our Office supplied C&G a copy of the record for the case.

Our Bid Protest Regulations require that a request for reconsideration contain a detailed statement of the factual and legal grounds upon which reversal or modification is warranted and that it specify errors of law made or information not considered previously. 4 C.F.R. § 21.12(a)

(1986). C&G has failed to demonstrate such error, and our May 5 decision therefore is affirmed.

for 
Comptroller General
of the United States