



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Denison Machine Co., Inc.
File: B-224823
Date: January 21, 1987

DIGEST

Award to second-low bidder was not improper where protester has not established that agency ever received verification of protester's low--and possibly mistaken--bid and where protester permitted its bid to expire after agency unsuccessfully had requested its verification over a 2-month period.

DECISION

Denison Machine Co., Inc. (Denison), protests the award of a contract under invitation for bids (IFB) No. DLA500-86-B-1865, issued by the Defense Logistics Agency (DLA), for a quantity of large round nuts made of special alloy. Denison, the apparent low bidder, alleges that the contract was improperly awarded to ADAC, the second low bidder, even though Denison had verified its low bid.

We deny the protest.

DLA issued the subject solicitation on May 13, 1986, and opened the 22 bids received on June 12. The seven lowest bids were as follows:

<u>Offeror</u>	<u>Unit Price</u>
Denison	\$ 9.63
ADAC	11.65
H & R Parts Co., Inc.	13.20
G T Machine & Tool Co.	13.66
Mays' Precision Machine Corp.	13.80
X-Pert Mfg., Inc.	14.30
Maco Precision Mfg., Inc.	17.30

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Since Denison's unit price was approximately \$2 below the next low bid, and since all of the remaining 20 bids were approximately \$2 or more above the second low bid, on June 16 the agency contacted the president of Denison by telephone to request that he verify the company's bid. A letter, also dated June 16, was sent to Denison by the agency requesting that Denison verify its bid price or provide evidence of any alleged mistake, in writing, by June 30. The president of Denison stated that he would have to inquire into the matter and indicated that he would return the agency's call. The record indicates that Denison's president failed to return not only this call but some five other calls to him by the agency between June 16 and August 21. The contracting agency was therefore never able to verify the bid telephonically.

On August 11, the six lowest bidders, including Denison, were called and requested to extend the time for acceptance of their bids due to the administrative delay associated with the attempts to verify Denison's bid. As of August 21, all of those bidders except Denison had extended the time for acceptance of their bids and on August 26, the contract was awarded to ADAC, the second low bidder, the contracting officer having treated Denison's unverified bid as expired 60 days after bid opening.

Denison argues that the contract was improperly awarded to ADAC, because Denison was the low bidder and in fact had confirmed its bid in writing on July 18. Attached to Denison's protest is a copy of a letter dated July 18 from Denison to the agency verifying the bid, which Denison alleges was mailed on that date.

The agency responds that it reasonably suspected an error in Denison's bid, that it followed the procedures outlined in the Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.406 (1985), in attempting to verify Denison's bid and that it never did receive the requested verification. In this regard, the agency states that it never received the protester's July 18 letter. Finally, the agency states that Denison's bid had expired, which Denison does not dispute.

There is no merit to this protest. Where a contracting officer, acting in good faith, suspects an error in a bid, he must seek verification of that bid. FAR, 48 C.F.R. § 14.406-1. Although the protester asserts that it verified its bid in writing, the agency denies receiving that verification letter, and reports that it continued calling the protester into August to obtain verification, which the protester also does not dispute. Thus, while the protester may have sent the letter, it also appears that DLA did not

receive it. Under the circumstances, given how far out of line Denison's bid price was relative to the other bids, we think the contracting officer properly could refuse to accept the bid in the absence of verification pursuant to the FAR, 48 C.F.R. § 14.406-3(g)(5). Moreover, it is also clear that Denison allowed its bid to expire, so that, by the date the agency was prepared to make award, the Denison bid was no longer available for acceptance.

Accordingly, the protest is denied.

for Seymour Eros
Harry R. Van Cleve
General Counsel