



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Systematics General Corporation--
 Reconsideration
File: B-224991.2
Date: April 10, 1987

DIGEST

When contracting agency orally requests a bidder to extend its bid before expiration of the acceptance period, and the bidder agrees, both orally and in writing, to do so, an award within the period for which the bid is extended is proper. Under these circumstances, the General Accounting Office need not consider the propriety of the agency's request, made after expiration of the acceptance period, that the protester also extend its bid.

DECISION

Systematics General Corporation requests reconsideration of our decision, Systematics General Corp., B-224991, Feb. 20, 1987, 87-1 CPD ¶ 190, in which we denied a protest against the award of a contract to Datasec Corporation under invitation for bids (IFB) No. DABT62-86-B-0021, issued by the United States Army Training and Doctrine Command, Fort Hood, Texas. The solicitation was for 18 TEMPEST approved video display terminals. We affirm our prior decision.

Systematics originally contended that the contract should be terminated and the requirement readvertised because the Army failed to make an award within a 60-day bid acceptance period, i.e., between bid opening on July 2, 1986 and expiration of bids on September 2. Rather, because it required additional time to determine which of the 14 bids that it had received actually complied with the specifications, the Army asked the 5 firms that it concluded were responsive to extend their bids. When the low bidder did not agree to do so, the Army made award to the second-low bidder, Datasec, on September 24.

The protester, which in the interim had implemented an overall price reduction for the terminals in question, conditioned its bid extension on the Army's acceptance of a reduced bid. When the contracting officer refused to consider such a bid, the firm did not extend.

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As indicated in our prior decision, Systematics argued that the Army's delay in making the award violated Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.101(e) (1986), which requires that awards be made with reasonable promptness. In denying this protest, we found that although the delay had resulted in the expiration of the low bid, this fact alone did not warrant cancellation of the IFB because there was no prejudice to the other bidders, and the second-low bid would meet the Army's needs at a reasonable price. We also found no evidence to support the protester's vague and unsupported allegations regarding the potential for collusion caused by the delay.

In requesting reconsideration, Systematics argues that both the agency report and our decision ignored another alleged impropriety that it raised. According to the protester, the contracting officer violated applicable regulations by not requesting extensions until after bids had expired. FAR, 48 C.F.R. § 14.404-1(d), states that the several lowest bidders should be asked to extend their bids before they expire; in Systematics' case, the contracting officer did not request an extension until September 16, or 2 weeks after the firm's bid had expired.

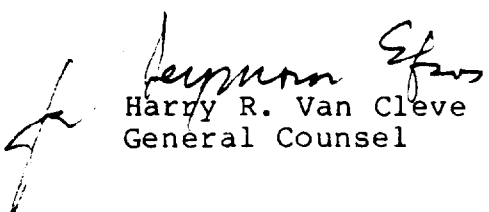
In its request for reconsideration, the protester describes a hypothetical situation in which, after expiration of bids, the low bidder agrees not to extend in return for a payoff by the second-low bidder. Although it does not allege that any collusion occurred in this case, Systematics concludes that it was prejudiced by the allegedly improper extensions because it might be successful upon resolicitation.

We continue to find the award proper. The record indicates that the contracting officer, by telephone on August 28, requested the low bidder to extend its bid which, as noted above, was to expire on September 2. The low bidder declined to do so and subsequently confirmed this in writing. On September 1, the contracting officer requested and the second-low bidder orally agreed to extend its bid for at least 45 days; Datasec subsequently confirmed in writing that the bid would remain open until October 30. Thus, the second-low bid had not expired before the Army requested an extension or before the Army accepted it on September 24.

The record further indicates that the contracting officer waited until September 16 to request extensions from the protester and the remaining firms that had submitted responsive bids. While bids that have expired generally may be revived, so long as the action would not compromise the

integrity of the competitive bidding system, Trojan Industries, Inc., B-220620, Feb. 10, 1986, 86-1 CPD ¶ 143, in view of the fact that Datasec's bid never expired, we need not consider the propriety of the attempt to revive the protester's bid (or the alleged potential for collusion) here.

Nothing else in Systematics' request for reconsideration warrants modifying or reversing our prior decision. It is affirmed. Bid Protest Regulations, 4 C.F.R. § 21.12 (1986).


Harry R. Van Cleve
General Counsel