



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sencland CDC Enterprises

File: B-252796; B-252797

Date: July 19, 1993

Jerome W. Shipman for the protester.
W. Graham Moses, Esq., Department of Housing and Urban
Development, for the agency.
David Hasfurther, Esq., and Michael R. Golden, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Protester's bids, which arrived at the bid opening room
after bid opening, were properly rejected as late, where the
bidder's commercial carrier hand-carried them to the agency
mailroom, rather than to the bid depository for hand-carried
bids in accordance with solicitation instructions, and where
the protester misaddressed the bid package, giving the wrong
room number for the bid depository, since these actions, not
government mishandling, reasonably appear to have been the
cause of the late receipt at the bid opening.

DECISION

Sencland CDC Enterprises protests the rejection of its bids
as late under invitation for bids (IFB) Nos. DU204-B-92-0034
and -0035, issued by the Department of Housing and Urban
Development (HUD), Atlanta Regional Office, for insurance
endorsement and mortgage credit technical review services,
respectively.

We deny the protests.

Both IFBs were issued on January 15, 1993. The IFBs
required hand-carried sealed bids to be delivered to the bid
depository located in:

"Department of Housing and Urban Dev.
75 Spring Street, Room 652
Reg. Cont. Div.
Atlanta, Georgia 30303"

Bid opening for both IFBs was 2 p.m. on February 18, 1993.
The Sencland bids were sent by United States Parcel
Service's (UPS) Next Day Air Service on February 17, 1993.
The UPS envelope contained both bids. The mailing label

identified the correct street address, solicitation numbers, and bid opening date and time. However, the label identified "Room 625" as the HUD bid depository instead of "Room 652" designated in the solicitation instructions.

Sencland has furnished documents from UPS, including the UPS driver's log which shows that a HUD mailroom clerk signed for the bid package containing Sencland's two bids at 9:14 a.m., on February 18, 1993. UPS drivers use an automatic recording machine which records signatures and the machine then locks in the time and date. UPS has no delivery receipt signed by the mailroom clerk which shows date and time of delivery.

The record also shows that HUD's mailroom staff make entries in the mailroom log in the order of receipt of packages from commercial carriers. Although the time of receipt is not entered on the log, the agency has copies of delivery receipts of another carrier, Airborne Express, which show delivery of a package at 11:57 a.m. which was entered on the log before the Sencland bid package. The record further shows that the procurement assistant went to the mailroom between 10:00 a.m. and 10:30 a.m. on February 18 to advise mailroom personnel of the bid opening at 2:00 p.m. She checked for any bids. Nine bids were logged in at the central location in the mailroom where packages from commercial carriers are placed. These nine packages were then delivered to the contract specialist. She also checked the mailroom at 1:30 p.m.; no other bids were found at that time. According to the agency, a mail clerk received four packages between 2:10 p.m. and 2:30 p.m. The clerk logged in these packages and delivered them to the contract specialist. According to the mailroom log, Sencland's package was one of these packages. The Sencland bid package was stamped and received by the contracting officer at 2:30 p.m. and received in the bid room shortly thereafter. The contracting officer subsequently rejected the bid as late.

Sencland argues that UPS' records establish that its bid package was received at 9:14 a.m., in sufficient time for the mailroom to deliver timely the package to the bid opening room. Sencland contends that the late receipt of its bids by the bid opening official was due solely to government mishandling after receipt by the agency.

The agency argues that Sencland's bids were received late due to late delivery by UPS. It contends that the only acceptable evidence of receipt at the agency is the time/date stamp or other documentary evidence maintained by the agency, and thus, the UPS records do not constitute acceptable evidence. The agency asserts that its log and the time/date stamp establish that the bid package was not

delivered until after 2:00 p.m. It also contends that Sencland must bear the responsibility for the late receipt of its bids at the bid opening room because the commercial carrier did not follow the solicitation instructions, and hand-delivered the bids to the mailroom, instead of the bid depository. The agency further asserts that appropriate procedures were used to ensure timely receipt at the bid opening room of bids delivered to the mailroom, and that Sencland's bid package was not in the mailroom both times the procurement assistant checked prior to bid opening.

We conclude that Sencland's bids were properly rejected. An offer is late if it does not arrive at the office designated in the solicitation by the time specified in the solicitation. Futura Sys., Inc., B-241069, Sept. 13, 1990, 90-2 CPD ¶ 208. An offer delivered to an agency by UPS or other commercial carriers is considered to be hand-carried and, if it arrives late, can only be considered if it is shown that the paramount reason for late receipt was some improper government action. Bionics Orthotics and Prosthetics, B-234823, Mar. 28, 1989, 89-1 CPD ¶ 322. A late bid or proposal cannot be considered if the offeror or its agent significantly contributed to the late receipt by not acting reasonably in fulfilling the responsibility to ensure delivery to the proper place by the proper time. See Seer Publishing, Inc., B-237359, Feb. 12, 1990, 90-1 CPD ¶ 181.

We think Sencland and its agent significantly contributed to the late receipt of Sencland's bids at the bid opening room. The IFBs clearly required that hand-carried bids be submitted to room 652, not the mailroom. Further, Sencland incorrectly identified the bid depository room as "625" on the UPS package. Thus, the package was misaddressed. Even accepting Sencland's assertion that UPS delivered the package to the mailroom at 9:14 a.m.,¹ the mailroom was not

¹We do not reach the issue of the acceptability of the UPS documentation of delivery as evidence of 9:14 a.m. receipt. Generally, the only acceptable evidence of receipt at the government installation is the time/date stamp on the bid wrapper or other documentary evidence of receipt maintained by the government installation. See Qualimetics, Inc., B-213162, Mar. 20, 1984, 84-1 CPD ¶ 332. Here, the wrapper on the package shows a time/date stamp of 2:30 p.m. This represents time of receipt at the bid opening room. While Sencland argues based on UPS records that its package arrived at 9:14, UPS did not obtain a signed delivery receipt with time and date. Here, the mail/clerk signed a recording machine. The machine locks in the time and date. Based on our decision, we need not address the evidentiary value of UPS' records.

the correct location for delivery of hand-carried bids. The misaddressing of the package could reasonably explain why the package did not arrive at the bid opening room timely. The procurement assistant did not begin checking on deliveries until after 10:00. By then the mailroom may have routed the package to the wrong room. Since Sencland's agent delivered the package to the mailroom in contravention of the IFB instructions which required that hand-carried bids be delivered to the room designated in the IFB, and Sencland erroneously inserted the wrong room on the mailing label, we think the protester contributed to the late delivery of its bids. See Carolina Archaeological Servs., B-224818, Dec. 9, 1986, 86-2 CPD ¶ 662; Queen City, Inc., B-223515, Sept. 23, 1986, 86-2 CPD ¶ 337; Olympia USA, Inc., B-215139, May 21, 1984, 84-1 CPD ¶ 535. Consequently, the bids were properly rejected as late.


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General Counsel