



G A O

Accountability * Integrity * Reliability

**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: General Power Engineering Associates, Inc.

File: B-292170

Date: May 28, 2003

John Patrick Parker for the protester.

Charles L. Webster III, Esq., Department of the Army, for the agency.

Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Contracting agency properly rejected bid as late where record shows that the bid was delivered by commercial carrier to the agency's loading dock after the time set for receipt of bids. Log book maintained by security guards in charge of monitoring the loading dock is acceptable evidence of the time of receipt of the bid even though the guards are not government employees since the log is maintained by the guards in the regular course of monitoring the loading dock for the agency and there is no reason to challenge the log's authenticity or reliability.

DECISION

General Power Engineering Associates, Inc. (GPEA) protests the rejection of its bid as late under invitation for bids (IFB) No. DACW5603-B-1001, issued by the Army Corps of Engineers for replacement of three generator air coolers at the Webbers Falls Powerhouse, Webbers Falls, Oklahoma.

We deny the protest.

The IFB, issued on November 27, 2002, required that bids be received by 2:00 p.m. on January 23, 2003. For hand-carried bids, the IFB stated that bids had to be received in the depository located in room 361 of the issuing office by the specified closing time.

GPEA's bid was sent via Airborne Express, a commercial carrier. According to the contracting agency, the bid was received at the agency's loading dock at 2:14 p.m. on January 23, after the designated closing time. As support for its position, the agency points to the log maintained by the security guards who monitor the loading dock;

that log contains an entry showing “Airborne Deliv[ery] to COE [Corps of Engineers]” on January 23 at “1414,” or 2:14 p.m. No other delivery from Airborne Express is noted on the log for that day. The contracting specialist states that she first located the package containing GPEA’s bid in her office on January 27. Based on its conclusion that the bid was received late, the agency rejected the bid and so notified GPEA by letter dated January 28.

It is a bidder’s responsibility to deliver its bid to the proper place at the proper time, and late delivery generally requires rejection of a bid.¹ Inland Marine Indus., B-233117, Feb. 16, 1989, 89-1 CPD ¶ 165 at 3. Acceptable evidence to establish the time of receipt of a bid includes the agency’s time/date stamp on the bid, other documentary evidence of receipt maintained by the agency, and oral testimony or statements of government personnel. Federal Acquisition Regulation § 52.214-7(c) (governing the treatment of late bids, and incorporated into the IFB here). In this case, the agency has submitted both documentary evidence of late receipt—the log maintained by the security guards at the loading dock—as well as a statement from the contracting specialist explaining that she first received the GPEA’s bid on January 27.

GPEA contends that the agency has not adequately shown that its bid was received late. GPEA challenges the agency’s reliance on the log maintained by the security guards because the guards are not government employees. In our view, the log is acceptable evidence of the time of receipt. It is undisputed that the log is a record maintained by the security guards in the regular course of monitoring the loading dock for the agency, and there is no reason to challenge its authenticity or reliability. The fact that the log is compiled by security guards who are contract employees rather than government employees does not preclude reliance on the log. See J. L. Malone & Assocs., B-290282, July 2, 2002, 2002 CPD ¶ 116 at 5.

GPEA itself submitted a copy of a “customer cartage manifest” from Airborne Express that purports to show that the bid package was delivered to the loading dock at 11:49 a.m. on bid opening day.² Commercial carrier records, standing alone, however, do not serve to establish the time of delivery to the agency, since they are

¹ A bid delivered by a commercial carrier like Airborne Express is treated like a hand-carried bid for purposes of bid submission. The Chappy Corp., B-252757, July 20, 1993, 93-2 CPD ¶ 44 at 3.

² The Airborne Express document is a printed form that lists two airbill numbers, one of which corresponds to GPEA’s bid package. At the bottom of the document is a space for a signature by the recipient, the recipient’s printed name, and the date and time of receipt. In the document submitted by GPEA, the signature block has only the letters “LDLOF” printed in pen along with the notation “1/23-1149,” also in pen, in the date/time block.

not evidence of receipt maintained or confirmed by the agency. Valenzuela Eng'g, Inc., B-280984, Dec. 16, 1998, 98-2 CPD ¶ 145 at 3. In any event, to the extent that GPEA relies on the Airborne Express document to establish that its bid was not in fact late, receipt of a bid at a mailroom or other receiving area does not constitute receipt at the office specified in the IFB. Inland Marine Indus., supra. Thus, even assuming that GPEA had established that the bid was received at the loading dock before the closing time--which it has not--the bid nevertheless properly would be considered late, since there is no evidence showing receipt of the bid in the specified office by the time set for receipt of bids in the IFB.

Since GPEA has not provided, and the record does not contain, any independent evidence casting doubt on either the log book showing late receipt, or the contracting specialist's statement that she did not receive the package until well after bid opening, we find that the record supports the agency's conclusion that GPEA's bid was received after the time set for receipt of bids under the IFB. Accordingly, we conclude that rejection of the bid was proper.

The protest is denied.

Anthony H. Gamboa
General Counsel