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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

March 10, 1982

FILE: B-205162

DATE:

MATTER OF: El Greco Painting & Contracting Co.

DIGEST:

Where bid sent via certified mail six days prior to bid opening was received in office designated in the solicitation for receipt of bids after award was made, the contracting officer properly rejected the bid as late.

El Greco Painting & Contracting Co. protests the rejection of its bid as late by the Veterans Administration (VA) Medical Center, Newington, Connecticut under invitation for bids (IFB) 627-35-81. El Greco maintains that its bid was received prior to award of the contract and therefore it should have been considered by the VA. The protest is denied.

The IFB provided that bids were to be sent to the contracting officer's office and would be opened on September 24, 1981. It included the clause set out in Federal Procurement Regulations (FPR) § 1-2.201(a) (31), entitled "Late Bids, Modification of Bids, or Withdrawal of Bids," which provides in part:

"(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and
* * *

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids * * *."

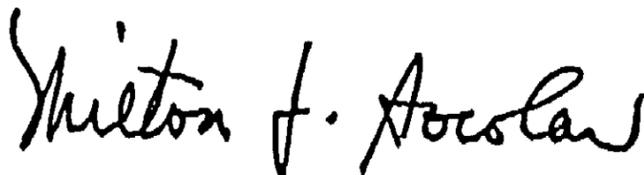
El Greco sent its bid to the medical center on September 18 via certified mail. Bids were opened as scheduled on Thursday, September 24, but El Greco's bid was not delivered to the medical center until Saturday, September 26. Since the mailroom was closed for the weekend, the telephone operator on duty at the medical center's main switchboard acknowledged receipt of the bid. On Monday, El Greco's bid was sent to the mailroom and was then forwarded to the contracting office where it was time-date stamped at 11:41 a.m. However, that Saturday the contracting officer had awarded the contract to the low bidder. There is no evidence available as to the exact time the telephone operator received the bid or the exact time award was made. The contracting officer determined that even though El Greco's bid was sent via certified mail six days prior to bid opening, it could not be considered because it was received at the location designated in the IFB after award was made.

El Greco contends that it complied with the late bid clause since its bid was sent by certified mail six days prior to bid opening and therefore its bid should have been considered. The firm also argues that its bid should be considered because the postmark on the return receipt indicated that its bid was actually received prior to award of the contract. The VA responds that El Greco's bid was received by the contracting officer after award was made and the contracting officer acted in accordance with the late bid clause in rejecting the bid.

Our Office has held that late receipt of a bid will result in its rejection unless the specific conditions set forth in the IFB are met. Federal Contracting Corporation, 56 Comp. Gen. 737 (1977), 77-1 CPD 444. One of those essential conditions is that the bid be received in the office designated in the solicitation before an award is made. B-179221, October 29, 1973. Thus, in order for El Greco's bid to be considered, it not only had to be sent by certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids, but in this instance it also had to be received in the contracting officer's office before award was made.

Contrary to El Greco's assertions, the postmark on the return receipt only indicates that El Greco's bid was received by the telephone operator on the same day that award was made--Saturday, September 26. Whether the bid was received by the telephone operator earlier in the day than the contracting officer awarded the contract is irrelevant since timeliness is measured by the time of receipt of the bid in the designated office. El Greco's bid was not received in the contracting officer's office until Monday, September 28, after award had been made, and therefore the contracting officer properly rejected the bid as late.

The protest is denied.

for 
Comptroller General
of the United States