

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD**

PROTEST OF:

NASH/BOYD)	
)	CAB No. P-129
Under Contract No. 8455-AA-55-0-8-DD)	

For the Protester: Charles M. Nash. For the Government: Nancy Hapeman, Assistant Corporation Counsel.

Opinion by Administrative Judge Zoe Bush, with Administrative Judges Marlin and Davis concurring.

OPINION

The instant protest of Nash/Boyd alleges that with regard to Invitation for Bids (IFB) No. 8455-11-55-0-8-DD: (1) the apparent low bidder, O. D. Jeter Trucking, Inc., failed to submit the required number of copies of its bid, and (2) the District failed to follow proper procedures in opening bids. Wherefore, Nash/Boyd requests that O. D. Jeter's bid be rejected and that Nash/Boyd be given consideration as the responsive low bidder.

The IFB under protest was issued on August 1, 1988 by the Department of Administrative Services (DAS) to procure 20,000 tons of wood chips in the sheltered market for the Department of Public Works. Three bids were opened by the District on September 1, 1988. The apparent low bidder was O. D. Jeter. On September 14, 1988, Nash/Boyd submitted the instant protest.

The District concedes that O. D. Jeter failed to submit the required number of copies with the original of its bid (Agency Report at 5). The District correctly points out, however, that such failure constitutes a minor irregularity that the contracting officer may waive. The Board agrees. Section 1535.1 of the District of Columbia Regulations for Contracts and Procurement, 27 DCMR §1535.1, provides that minor irregularities in bids may be waived if the contracting officer determines that the waiver is in the best interest of the District. Specifically, §1535.2(a) provides that the contracting officer may determine that the failure of the bidder to return the number of copies required by the IFB is a minor irregularity, 27 DCMR §1535.2 (a). Thus, the District properly waived O. J. Jeter's failure to submit additional copies.

Nash/Boyd also argues that the District failed to follow proper bid opening procedures because: (1) bids were opened at 2:15 on September 1, 1988; (2) no copy of

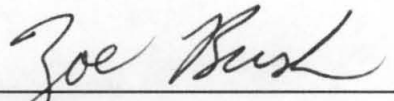
O. D. Jeter's bid was provided at bid opening; and (3) oral and not written information of O. D. Jeter's bid was made available at bid opening. The District has submitted affidavits of DAS representatives who conducted the bid opening which show that: (1) at 2 p.m. the District stopped receiving bids consistent with the IFB; (2) the District read aloud each bidder's name and bid price at opening; and (3) the District made the original O. D. Jeter's bid available for public inspection after the bid opening. The Board finds that these actions by the District are in compliance with §1527 of the District's procurement regulations.

Specifically, the Board finds that (1) the 15-minute delay in opening bids is not material in that no bids were accepted after 2 p.m. consistent with the IFB and with 27 DCMR §1527.1; and (2) the District's oral recitation of bids was consistent with 27 DCMR §1527.2 which provides that the name of each bidder, the bid price and other appropriate information "shall be read aloud or otherwise made available." Finally, the District acted properly and within its discretion in making the original O. D. Jeter bid available, in that 27 DCMR §§1527.4, 1527.5 allow for supervised examinations of bids by interested persons.

Wherefore the Board finds that the District properly conducted the opening of bids concerning the IFB at issue here and properly waived the requirement for additional copies of the O. D. Jeter original bid.

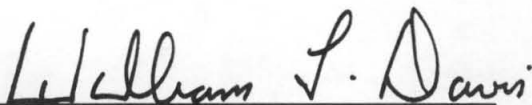
The protest is DENIED.

DATE: May 22, 1991

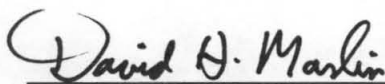


ZOE BUSH
Administrative Judge

CONCUR:



WILLIAM L. DAVIS
Chief Administrative Judge



DAVID H. MARLIN
Administrative Judge