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Proc II

**DECISION**



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

**FILE: B-191361**

**DATE: May 22, 1978**

**MATTER OF: Tate Architectural Products, Inc.**

**DIGEST:**

A hand-carried bid, delivered after bid opening officer determined that time for bid opening had arrived, and after one bid had been opened and announced, may not be considered since officer reasonably relied on his watch in absence of wall clock and no persuasive evidence exists to contradict officer's determination.

Tate Architectural Products, Inc. (Tate), protests the rejection of its bid under invitation for bids (IFB) NP-78-12-(JC) issued by the Department of Labor, Employment and Training Administration, Washington, D.C. The IFB, as amended, provided that bids would be opened at 3 p.m. e.s.t., February 24, 1978 at the office of the architect for the project. Tate contends that its hand-carried bid was tendered to the bid opening officer prior to 3 pm. and was improperly rejected as late.

In support of its contention that its bid was submitted prior to the 3 p.m. deadline Tate has provided an affidavit from the individual who delivered the bid. Tate's representative indicates that when he arrived in the bid opening room his watch showed the time as 2:57 p.m. and that he exhibited it to everyone in the bidding room but the bid was still rejected as late. In addition, Tate has supplied an affidavit from a representative of another bidder, whose bid was also rejected as late. That representative states that as he was entering the bid opening room, at 2:57 p.m., according to his watch, he heard a voice saying "this bid is from Baron Builders." He then heard the bid price. He states that the Tate representative followed him into the bidding room.

Tate argues that these statements show that its bid was tendered prior to the arrival of the bid opening

time and that, in any event, Federal Procurement Regulations (FPR) 1-2.402(a) (1964 ed.) was violated because no agency representative officially called out to those present that the opening time had arrived. Further, Tate insists that agency representatives did not make a reasonable determination that bid opening time had arrived. In this regard, Tate notes that there was no wall clock in the bid opening room and contends that agency representatives relied on objections from other bidders in reaching the conclusion that Tate's bid was late.

The report submitted to our Office by the agency states that according to the watches of the Government's representative at the bid opening and the architect for the project the designated bid opening time arrived (3 p.m.) and, at least, one bid had been opened when Tate presented its bid. Tate was then told its bid was late.

FPR 1-2.402 (1964 ed.) gives the bid opening officer the authority to decide when the time set for bid opening has arrived. In this instance the opening officer used his watch to make that determination. Tate and the representative of another bidder contend that the determination was premature by three minutes. However, the other bidder's representative admits in his affidavit that his watch was set seven or eight minutes fast.

In view of the fact that the bid opening room was not equipped with a wall clock and considering that there is no persuasive independent evidence that contradicts the opening officer we find that he reasonably exercised his authority in determining that the opening time had arrived. Peter Kiewit Son's Company, B-189022, July 20, 1977, 77-2 CPD 41. Since the record indicates that bids were being read aloud when Tate arrived we see no merit in Tate's contention that the bid opening officer failed to declare that bid opening time had arrived.

Accordingly, the protest is denied.

  
Acting Comptroller General  
of the United States