

**DECISION**



11566 Proc H  
Crowley  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-194895

DATE: October 3, 1979

MATTER OF: National Blower and Sheet  
Metal Company, Inc.

DIGEST:

*[Protest Alleging Late Bid Was Timely Delivered]*

1. Handcarried bid received two minutes after the time specified for receipt of bids according to clock in office designated for receipt of bids which had been checked for accuracy is a "late bid." Bid may not be considered even though protester's agent's watch indicated delivery was within one minute of deadline and bid was received before other bids were opened.
2. Where gate guards at Government installation followed specified procedures for entry onto installation although such procedures may not always have been observed in the past, untimely submission of bid was not due to improper Government action as delays in gaining access to military and other Government installations are not unusual or unexpected.

National Blower and Sheet Metal Company, Inc. (National Blower), protests the rejection of its late bid under invitation for bids (IFB) No. F45603-79-B0020 for roof repairs to a building at McChord Air Force Base, Washington.

The protester asserts that its bid was hand delivered timely to the office designated in the IFB for receipt of bids. Alternatively, it argues that if the bid was late, it was due to improper Government action and consideration of the late bid would not compromise the integrity of the competitive bidding system.

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*716 01722*  
*AGC 00605*

For the reasons set forth herein, we determine that the bid of National Blower was late and that there was no improper Government action that caused the bid to be late.

(The IFB set bid opening for 2:00 p.m. National asserts that its bid was delivered by 1:59 p.m. to the receptionist at the designated location, Base Procurement Office, McChord, who thereafter took National Blower's and other bids that had been received into the bid opening room. The bid opening official, according to the protester, then opened the bids except for National Blower's, which he declared was late.

The Air Force states that when National Blower's agent arrived at the procurement office, the bid opening official was proceeding to the bid opening room as the time to open bids had arrived. According to the Air Force, the receptionist noted by hand on the bid envelope the time of delivery as "1402" (2:02 p.m.) in accordance with the clock in the procurement office. She also advised the agent that the bid was late and returned the bid to the agent, who carried it into the bid opening room and gave it to the bid opening official who was beginning to open bids. No bid actually had been opened before National Blower's bid was placed before the bid opening official.

Under either version of the facts, the protester argues that its bid was timely delivered because (1) the personal watch of its agent read 1:59 p.m. when he delivered the bid and (2) at that time the bid opening official had not declared to those present that the time for bid opening had arrived as required by Defense Acquisition Regulation (DAR) 2-402.1(a) (1976 ed.). )

The only documentary evidence of time of receipt of the protester's bid is the receptionist's handwritten notation on the protester's bid envelope of the time of receipt (the time/date stamp machine was inoperative). We believe the receptionist's notation must be accepted unless persuasive evidence exists which calls into question the accuracy of the procurement office's clock, upon which the receptionist relied. We find no such

evidence, as the protester has proffered only the time shown on the watch of its agent. Under these circumstances, we find the Air Force properly relied on the office clock used to time all other bids and which had been checked for accuracy shortly before opening. 51 Comp. Gen. 173 (1971); Peter Kiewit Sons' Company, B-189022, July 20, 1977, 77-2 CPD 41. Consequently, we must view the bid as late.

The fact that the bid opening official had not announced that bid opening time had arrived before the protester's bid was delivered to the procurement office, does not warrant a contrary result. The clock used to time the receipt of bids read 2:02 p.m. when the bid of National Blower was delivered and the bid opening official, in reliance on the time showing on that clock, was proceeding to the bid opening room to open bids. This action had the effect of establishing the deadline for receipt of bids; the absence of a specific verbal announcement was of no consequence. 47 Comp. Gen. 784 (1968); Tate Architectural Products, Inc., B-191361, May 22, 1978, 78-1 CPD 389. Indeed, the bid opening official was without authority to accept a bid that clearly was submitted after that deadline. See William F. Wilke, Inc., 56 Comp. Gen. 419 (1977), 77-1 CPD 197. (This is not a situation where the contracting officer extended the bid opening without prior amendment or notice to bidders where it is impracticable to open bids as scheduled because an emergency or unanticipated events interrupt normal Government processes. See DAR § 2-402.3.)

We also find no merit to the contention that improper action by Government personnel caused the protester's bid to be late. National Blower states that its agent arrived at the gate at McChord between 1:30 and 1:45 p.m. The agent asked for a visitor's pass to the Base Procurement Office which National Blower states are routinely handed out within seconds. However, the gate guard on duty instructed the agent to park his vehicle, call the procurement office, and have the personnel there call the guard post and give permission for National Blower's agent to go to the procurement office. According

to National Blower, the agent explained that he had not previously been required to obtain such telephonic approval, but had only needed to state his destination to gain entry. Finally, one of the guards telephoned the Base Procurement Office which immediately authorized National Blower's agent to proceed to the procurement office.

Although National Blower states that its agents had gained access to McChord several times previously without being subjected to those security procedures, the Air Force contends that the procedure followed by the gate guards on the date in question was in conformance with base policy and was in effect in August 1978 when National Blower handcarried other bids to McChord. Consequently, the Air Force does not consider that its personnel acted improperly.

The general rule is that the bidder has the responsibility for the delivery of its bid to the proper place at the proper time, but that a late handcarried bid may be accepted where the lateness is due to improper Government action and consideration of the late bid would not compromise the integrity of the competitive bid system. See, e.g., Hyster Company, 55 Comp. Gen. 267 (1975), 75-2 CPD 176. Delays in gaining access to military and other Government installations are not unusual and should not be unexpected, B-178984, October 30, 1973, and do not, as a general rule, result from improper Government action. Even though the protester's prior experience did not involve delay in gaining access to the base, we cannot conclude that the Government unreasonably delayed the bidder when it was merely adhering to its established base entrance policy, notwithstanding that the policy may not always have been enforced previously.

In 34 Comp. Gen. 150 (1954), cited by the protester, we permitted consideration of a late bid because there had been an extraordinary delay caused by Government personnel at the installation entrance, with the result that the bid was delivered to the bid opening official three minutes late, albeit prior to the actual opening

of any bids. We allowed consideration of the bid because it was delivered, prior to the designated bid opening time, to the room set aside for receiving bids where it was stamped as timely received by a clerk and returned to the bidder, who arrived at the bid opening area three minutes later. The situation in this case, however, is distinguishable in that here the bid initially was not delivered to the designated place prior to the time specified and there was no extraordinary or unreasonable delay at the gate caused by any improper Government action.

The protest is denied.

  
Deputy Comptroller General  
of the United States