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DECISION



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

FILE: B-205738

DATE: March 4, 1982

MATTER OF: Specialty Maintenance and Construction, Inc.

DIGEST:

Hand-carried bid received three minutes after the time specified for receipt of bids according to clock in office designated for receipt of bids which subsequently was checked for accuracy is a "late bid". Bid may not be considered even though received before other bids were opened.

Specialty Maintenance and Construction, Inc. protests the rejection of its bid under invitation for bids (IFB) No. 14-81 issued by the General Electric Company, a prime management contractor for the Department of Energy (DOE). Specialty asserts that its bid was hand delivered timely to the receptionist prior to the time specified for receipt of bids and was improperly rejected as late. For the reasons discussed below, we deny the protest.

Initially, we note that our Office does not ordinarily review the award of subcontracts by Government prime contractors, except in certain limited situations. See Optimum Systems, Inc., 54 Comp. Gen. 767 (1975), 75-1 CPD 166. One of the exceptions to our general policy is where, as here, the award is made "for" DOE by prime management contractors which operate and manage DOE facilities. See General Electrodynamics Corporation, B-190020, January 31, 1978, 78-1 CPD 78. Accordingly, since here General Electric is purchasing the material to be supplied by Specialty under General Electric's prime contract with DOE for the operation of a DOE facility, it falls within our subcontract award review policy.

The IFB set bid opening for 3:00 p.m. on December 3, 1981 and incorporated the standard "late bid" provision of Federal Procurement Regulations § 1-2.201(a)(31). Specialty asserts that its bid was timely delivered at the designated location and was thereafter taken, together with other bids that had been received, into the bid opening room. According to the protester, the bid opening official then opened the bids, including Specialty's, which he subsequently declared to be late.

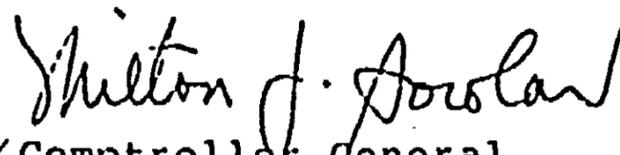
DOE states that when Specialty's agent arrived at the designated location, the receptionist noted by hand on the bid envelope the time of delivery as 3:03 p.m., in accordance with the telephone console digital clock in the procurement office. Subsequent verification with a National Bureau of Standards clock showed the telephone console clock to be only ten seconds slow. Specialty's bid was inadvertently opened along with the other bids received because the bid opening official failed to notice the time of delivery noted on the bid envelope. Upon being notified of the lateness of Specialty's bid, the bid opening official verified the accuracy of the telephone console clock, confirmed that the receptionist correctly marked the envelope and that late delivery was not due to any mishandling at the Government facility. The agency then notified Specialty that its bid would not be considered for award.

The protester argues that its bid was timely delivered because: (1) it believes that a glance by the receptionist at the telephone console clock could be subject to "human error"; (2) according to its agent, bids were picked up at 3:05 p.m. from the reception desk, five minutes after it had delivered its bid, which indicates timely delivery; and (3) the failure of the bid opening official to "close the bid receipt time" at the "appointed time" despite authority to do so. The protester does acknowledge, however, that it was delayed by a bridge accident for twenty-five minutes enroute to the procurement office.

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. 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. See National Blower and Sheet Metal Company, Inc., B-194895, October 3, 1979, 79-2 CPD 240. We find no such evidence, as the protester has proffered only the speculative allegation of possible "human error" and uncorroborated estimates by its agent that its bid was picked up at 3:05 p.m., five minutes after it delivered its bid. Under these circumstances, we find that DOE properly relied on the office clock which was subsequently checked for accuracy shortly after 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 receipt of bids read 3:03 p.m. when the bid of Specialty was delivered and the absence of a specific verbal announcement was of no consequence since a bid opening official is without authority to accept a bid that clearly was submitted after the deadline. See National Blower and Sheet Metal Company, Inc., supra.

The protest is denied.

for 
Comptroller General
of the United States