

DECISION

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

FILE: B-220497

DATE: November 20, 1985

MATTER OF: Arnold Rooter, Inc.

DIGEST:

1. When the only evidence of the time that the bidder's representative arrived at the contracting office consists of a statement of the protester that the representative arrived prior to the bid opening time and a statement of the contracting agency that the representative arrived after that time, the protester has failed to sustain its burden of proving that the bid was not late.
2. It is the bidder's responsibility to assure timely arrival of its bid at the place of bid opening, and a bid that is late because the bidder failed to allow sufficient time for delivery of the bid may not be considered for award. The fact that bids had not been opened when the late bid was received is irrelevant, since the importance of maintaining the integrity of the competitive bidding system outweighs any monetary savings that might be obtained by considering a late bid.

Arnold Rooter, Inc. (ARI) protests the rejection as late of its bid under invitation for bid (IFB) No. F11623-85-B-0053, issued by the Department of the Air Force to test and seal the sanitary sewer system at Scott Air Force Base, Illinois. We deny the protest.

Bid opening was scheduled for 3 p.m. on September 16, 1985. ARI alleges that its representative was present at the base contracting office prior to the 3 p.m. deadline and tendered its bid to the procurement clerk. The clerk informed ARI's representative that a MSgt Koegle would have to be called from the bid opening room. According to the protester, it was 3:01 p.m. when MSgt Koegle came out, and he refused to accept the bid because the exact time for the opening of bids had passed.

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ARI contends that the bid should have been accepted since it was offered to the clerk before 3 p.m. ARI, whose representative went to the bid opening room and noted that no bid had yet been opened, further argues that no advantage could have been gained by ARI if its bid were accepted, and that by putting form over substance the government loses the \$47,000 by which ARI's bid allegedly is below the low accepted one. (The firm's attorney holds the bid, which the government never opened.)

According to the Air Force procurement clerk, who was the first person contacted by ARI, ARI's representative arrived at 3:03 p.m. When ARI offered its bid, the Air Force states, the procurement clerk advised ARI that the bid was late, but called MSgt Koegle to the office to talk to ARI's representative. MSgt Koegle also advised ARI that the bid was late and could not be accepted. The Air Force further alleges that the ARI representative acknowledged to several people at the bid opening that he was late because of traffic conditions and difficulty in finding the building and room.

When the only evidence on an issue of fact consists of conflicting statements of the protester and the agency, the protester has not satisfied its burden of proof. Unico, Inc., B-216592, June 5, 1985, 85-1 C.P.D. ¶ 641. Therefore, although ARI contends that its representative arrived at the contracting office prior to the bid opening time, we are constrained to accept the Air Force's statement that the representative first arrived at the reception desk 3 minutes after the time for bid opening, and that the bid thus was late.

Moreover, it is not relevant that bids had not yet been opened when ARI's bid was received. The bidding rules and regulations are clear that it is the bidder's responsibility to assure timely arrival of its bid at the place of bid opening, and a bid that is late because the bidder failed to allow sufficient time to deliver the bid may not be considered for award. See James L. Ferry and Sons, Inc., B-181612, Nov. 7, 1974, 74-2 C.P.D. ¶ 245; Federal Acquisition Regulation, 48 C.F.R. § 14.304 (1984). We consistently have taken the position that these guidelines must be enforced strictly, since maintaining confidence in the integrity of the competitive bidding system outweighs any monetary savings that might be obtained by consideration of

a late bid. 51 Comp. Gen. 173 (1971); Chestnut Hill
Construction, Inc., B-216891, Apr. 18, 1985, 85-1 C.P.D.
¶ 443.

The protest is denied.

for Seymour Efron
Harry R. Van Cleve
General Counsel