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DECISION



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

FILE: B-222230; B-222231 **DATE:** June 3, 1986

MATTER OF: Hi-Grade Logging, Inc.

DIGEST:

1. Where the bid opening officer receives a hand-carried bid after declaring the arrival of the bid opening time as shown on the front office clock, the agency properly rejected the bid as late. The bid opening officer's declaration is determinative of lateness unless shown to be unreasonable under the circumstances.
2. A late bid cannot be considered on the basis that the bid may offer the government advantages over those bids which have been timely received.

Hi-Grade Logging, Inc. (Hi-Grade), protests the rejection of its bid as late under the Pinky Salvage and Rubadub Salvage Timber Sales conducted by the Forest Service, Department of Agriculture. We deny the protest.

Bid opening was scheduled for 10 a.m. on February 19, 1986. The newspaper advertisements announcing the sales and the sale prospectuses designated the office of the Lowell (Oregon) District Ranger as the place for the submission of bids.

The protester's representative hand-carried Hi-Grade's bid to the building containing the designated Office for bid opening. Upon the representative's arrival at the building, she contacted by mobile radio the president of Hi-Grade in order to clarify a question on the bidding procedure. The president states that the representative called a little more than 3 minutes before 10 a.m., apparently according to his watch and when the hourly news broadcast began on the radio. The representative states that, according to her watch, she had "about a minute to spare" when she arrived at the front desk of the ranger office. The representative further states that the receptionist at the front desk escorted her to the conference room where bids were being

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opened and the contracting officials there told her that the bid was late and could not be accepted.

Hi-Grade contends that its bid was improperly rejected because bids were to be submitted at the front office and its representative arrived there with its bid prior to 10 a.m. Moreover, Hi-Grade asserts that it takes less than 1 minute to go from the front office to the conference room and, therefore, its bid also arrived there before 10 a.m. Hi-Grade states that a representative of another bidder who was present at the bid opening, Rick Brewer Logging (Brewer), believes that Hi-Grade's bid arrived on time. Hi-Grade further complains that the contracting officials relied on inaccurate clocks and never checked the "official time" before rejecting its bid as late. Finally, Hi-Grade argues that its bid is higher than those accepted and acceptance of it would have been advantageous to the government.

The Forest Service responds to these contentions by providing signed statements from the government personnel involved in the procurement to demonstrate that Hi-Grade's bid was properly rejected as late. According to these statements, the clocks in the front office and conference room were synchronized the morning of the bid opening. The bid opening officer states that she picked up the bid envelopes from the front desk at 10 a.m., according to the front office clock, went to the conference room, and announced that the time for submitting sealed bids had expired. She states that the Hi-Grade representative was not in the ranger's office at that time. The receptionist states that, according to the front office clock, it was 2 or 3 minutes after 10 a.m. when the Hi-Grade representative arrived and she told the representative that the bid probably was late. The receptionist states that she then took the representative to the conference room and it was 3 or 4 minutes after 10 a.m. according to the conference room clock when they arrived there. The bid opening officer states that she had opened several bid envelopes before the receptionist brought Hi-Grade's representative in to the conference room and she told the receptionist that she would not accept Hi-Grade's bid. The front office and conference room clocks were checked that afternoon with the telephonic time recording and it showed that the front office clock was less than 60

seconds fast and the conference room clock was 25 seconds fast. The Forest Service also submitted a signed statement from Brewer, the same bidder that Hi-Grade claims supports its position, who states that the Hi-Grade representative did not arrive until "about" 10:05 a.m.

As a general rule, it is the responsibility of the bidder to deliver its bid to the proper place at the proper time and the late delivery of a bid requires its rejection. The record indicates that Hi-Grade and the Forest Service disagree as to whether Hi-Grade's representative arrived with its bid just prior to or after the time set for bid opening. This disagreement is based on the fact that the agency relied on the clocks in its office to determine the time while the protester relied on its representative's watch and other means. Thus, the question raised for consideration is who determines that the correct time for bid opening has arrived and how that determination is made.

Under the Federal Acquisition Regulation, 48 C.F.R. § 14.402-1(a) (1984), the bid opening officer must decide when the time set for opening bids has arrived and must inform those present of that decision. That section also requires the bid opening officer to personally and publicly open all bids received before that time. There is no requirement that the time be checked with the telephonic time report, which is what Hi-Grade presumably means by official time. Here, the bid opening officer used the clock in the front office to determine that the time set for bid opening had arrived and then announced that it was time for bid opening. The bid opening officer's declaration of bid opening time is determinative of lateness unless it is shown to be unreasonable under the circumstances. K. L. Conwell Corp., B-220561, Jan. 23, 1986, 86-1 C.P.D. ¶ 79.

There is nothing in the record indicating that the front office clock, in fact, showed a time before 10 a.m. at the time of bid opening. Further, although a telephonic time report was obtained later in the day, the record contains no evidence that the bid opening officer acted unreasonably in declaring bid opening based on the front office clock. The 1-minute difference between that clock and the telephonic time report is not sufficient in itself to render the declaration unreasonable. See B-164625, July 11, 1968 (there a bid opening officer did not abuse his authority

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where he declared bid opening based on the clock in the bid opening room, later shown to be 2 minutes faster than a telephonic time report).

Moreover, we have held that a late bid must be rejected even though it may be more advantageous to the government than those bids timely received, since the maintenance of confidence in the integrity of the government procurement system is of greater importance than the possible advantage to be gained by considering a late bid in a particular procurement. Discovery International, Inc., B-219664.2, Nov. 19, 1985, 85-2 C.P.D. ¶ 565.

The protest is denied.

for *Reginald Spross*
Harry R. Van Cleve
General Counsel