



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Robert R. Nathan Associates, Inc.

File: B-230707

Date: June 28, 1988

DIGEST

Contracting specialist's reliance on the Naval Observatory master clock to determine when closing time had passed was reasonable and proposal submitted after the designated time was properly rejected as late.

DECISION

Robert R. Nathan Associates (RRNA) protests the Agency for International Development's (AID) rejection of the proposal it submitted in response to request for proposals (RFP) No. OP/W/CO-88-002.1/ AID concluded that the proposal was received after the deadline for receipt of proposals had passed and therefore refused to consider it. RRNA protests that its proposal was timely submitted. We deny the protest.

The RFP was issued on January 15, 1988, seeking proposals to furnish advisory services and technical assistance in the area of institutional development and development management. The RFP stated that proposals would be received until 2 p.m. on February 24, and designated the 15th floor reception desk, 1100 Wilson Boulevard, Arlington, Virginia, as the location where hand delivered proposals were to be submitted.

AID states that, on February 24, the contracting specialist for this procurement stationed herself at the 15th floor reception desk from 1:55 p.m. until 2:01 p.m. During that

1/ RRNA submitted a proposal as a joint venturer with Louis Berger International, Inc. Accordingly, the joint venture--not RRNA itself--is the interested party with standing to protest AID's action. Nevertheless, for the purpose of this decision, we assume that RRNA is acting as an authorized agent of the joint venture, and our references to RRNA are references to the joint venture.

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period, the contract specialist used the reception desk telephone to monitor the time as established by the Naval Observatory master clock. AID states that at exactly 2:01 p.m., per the Naval Observatory master clock, the contract specialist declared that the time for submitting proposals had passed and advised the receptionist that proposals subsequently submitted would be considered late. The contract specialist then left the reception area.

The record indicates that RRNA's representative arrived in the reception area shortly after AID's contract specialist had left. RRNA asserts that when its representative arrived in the reception area, the clock at the reception desk indicated it was not yet 2 p.m. However, at that time, the receptionist was busy with another individual there on business unrelated to this procurement and RRNA states that its representative was forced to wait "at least two minutes" before submitting RRNA's proposal. Upon submission of the proposal, the receptionist stated that it was late and issued a receipt indicating that the proposal had been submitted at 2:02 p.m.

RRNA first protests that the clock at the reception desk, rather than the Naval Observatory master clock, should have controlled the contracting specialist's determination that the time for submitting proposals had passed. Based on that premise, RRNA then asserts that its representative was in the reception area prior to the 2 p.m. deadline and was prevented from submitting its proposal prior to that time only by AID's failure to have another employee in the reception area to accept proposals immediately and prevent any waiting.

Our Office has held that where it appears a proposal may have arrived after the time designated by the solicitation for receipt of proposals, the actual time of receipt must be established before we will consider the question of wrongful government action. Stewart & Stevenson Services, Inc., B-219618, Nov. 8, 1985, 85-2 CPD ¶ 531. Accordingly, we first consider the issue of when RRNA's proposal was submitted.

RRNA presents no evidence that the AID contract specialist inaccurately reported the time as established by the Naval Observatory master clock. Accordingly, we consider the only issue presented to be whether the contract specialist properly relied on that clock rather than the clock at the reception desk in determining when closing time had passed.

In analogous situations under advertised procurement procedures, where two clocks give conflicting evidence as to the exact time, we have held that the bid opening officer's

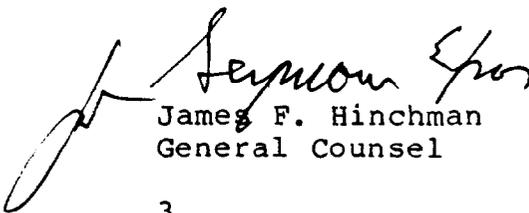
declaration of bid opening time is determinative, unless it is shown to be unreasonable under the circumstances. Chattanooga Office Supply Company, B-228062, Sept. 3, 1987, 87-2 CPD ¶ 221. We believe that principle is applicable here.

We find nothing unreasonable about the AID contracting specialist's reliance on the Naval Observatory clock to determine when closing time occurred. In this regard, we find no indication--and it seems unlikely--that RRNA in any way relied on the time displayed on the reception desk clock, as opposed to the Naval Observatory clock, in planning the time of its arrival. Rather, it appears that the slight difference between the two clocks was a coincidence which RRNA is now attempting to use to remedy a situation it created by failing to allow sufficient time for submission of its proposal.

It is the responsibility of the offeror to deliver its proposal to the proper place at the proper time, and late delivery generally requires rejection of the proposal. Stewart & Stevenson Services, Inc., *supra*. By choosing a method of delivery other than that specified in the late proposal clause (registered mail, certified mail or telegram where authorized), an offeror assumes a high degree of risk that its proposal will be rejected if untimely delivered. SysTec, B-209483, Apr. 8, 1983, 83-1 CPD ¶ 374; Federal Acquisition Regulation § 52.215-10 (FAC 84-17). The reason for the rules governing late proposals is that the manner in which the government conducts its procurements must be subject to clearly defined standards that apply equally to all offerors so that fair and impartial treatment is ensured.

Here, the record indicates that the RRNA representative did not enter the reception area until after AID's contracting specialist had announced that closing time had passed. We find nothing unreasonable in the contract specialist's reliance on the Naval Observatory master clock in reaching her determination that closing time had passed and, therefore, conclude that her statement to that effect was determinative of the matter. Accordingly, we have no reason to consider RRNA's contention that AID was required to have an employee in the reception area to prevent waiting.

The protest is denied.


James F. Hinchman
General Counsel