



**The Comptroller General  
of the United States**

Washington, D.C. 20548

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## **Decision**

**Matter of:** International Steel Erectors

**File:** B-233238

**Date:** February 13, 1989

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### **DIGEST**

Agency properly rejected late hand-carried bid where the evidence does not establish that the protester delivered the bid to the bid depository room prior to the time set for bid opening, or that wrongful government action was the paramount cause for the late delivery of the bid.

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### **DECISION**

International Steel Erectors (ISE) protests the rejection of its late bid under invitation for bids (IFB) No. F65501-88-B-0058, issued by the Elmendorf Air Force Base, Alaska, for replacement siding. ISE contends that its bid should be considered because the lateness was due to an "impropriety" on the part of the Air Force.

We deny the protest.

The IFB was issued on July 10, 1988, with bid opening scheduled on August 9, 1988, at 2:30 p.m. Building 6-920, room 249, Elmendorf Air Force Base, Alaska, was listed as the bid depository for hand-carried bids. After several amendments to the IFB, bid opening was rescheduled for September 20, 1988, at 2 p.m.

The Air Force reports that on September 20 there was an agency official waiting to accept hand-carried bids in room 249 up until 30 seconds prior to 2 p.m. At that time, the agency official left the room to advise the contracting officer, who was located across the hall in room 252, of the time. The contracting officer and the agency official proceeded to room 236 where the opening of bids was to take

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place. In the process, they passed the bid depository room and checked to make sure that there were no bidders in the room. When they reached the conference room, immediately around the corner from room 249, it was 2 p.m. No bidders were passed or seen in the hallway.

After declaring that it was 2 p.m., the contracting officer began opening and recording bids. Shortly thereafter, an ISE representative entered the room and placed an unopened bid among the rest of the bids. Since ISE submitted its bid after the 2 p.m. deadline, the contracting officer did not open the bid. The time-date stamp on ISE's bid indicated that it was received by the Air Force at 2:03 p.m. The bid was stamped by an Air Force employee in room 246, who also directed the ISE representative to the conference room. In a conversation with the contracting officer concerning why the bid was not being accepted, the ISE representative stated that he believed that the bid opening was at 2:30 p.m. After learning that the bid opening was scheduled for 2 p.m., the ISE representative informed the contracting officer that he had waited in the bid depository room for 2 minutes prior to 2 p.m., before he located someone to take ISE's bid.

ISE contends that the Air Force caused the late receipt of the bid by changing the place of bid opening from room 249 to room 236. ISE argues that it arrived at room 249 prior to 2 p.m., but the Air Force contracting officer was not present to accept its bid. Thus, ISE contends that the 3-minute delay in stamping its bid as received was caused by the government.

The affidavit from the ISE representative who delivered the bid states that he arrived at building 6-920 several minutes prior to 2 p.m. and proceeded directly to the designated bid depository room. The individual states that the room was empty. After becoming concerned about being in the wrong room, the individual claims he spent several minutes checking whether he was in the proper room before walking across the hall into room 250. In room 250, there were a number of government employees and the individual inquired if anyone knew the location of the bid opening room, after which one of the government employees took the bid package into room 248 where it was stamped in at 2:03 p.m. ISE argues that the late receipt of the bid is attributable solely to the government's alleged impropriety of holding the bid opening in a room other than the bid depository room, without notifying bidders.

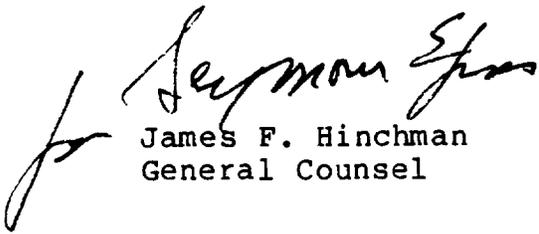
As a general rule, the bidder is responsible for delivering its bid to the proper place at the proper time. J.E. Steigerwald Co., Inc., B-218536, Apr. 19, 1985, 85-1 CPD ¶ 453. The bid is considered late if it does not arrive at the office designated in the solicitation for the receipt of bids by the specified time. Id. However, where a hand-carried bid is determined to be late, as here, we may permit it to be considered if the protester can establish that the government's wrongful or improper action was the paramount cause for the late arrival at the designated place and that consideration of the late bid would not otherwise compromise the integrity of the competitive system. J.E. Steigerwald Co., Inc., B-218536, supra.

Timely receipt of hand-carried bids need not necessarily be proved only by a time/date stamp or other documentary evidence maintained by the government. When the issue is whether a hand-carried bid was timely received, we consider all relevant evidence in the record, which may include statements by both the protester's employees and government personnel. Santa Cruz Construction, Inc., B-226773, July 2, 1987, 87-2 CPD ¶ 7. However, unless a preponderance of the evidence indicates that the bid was timely delivered, the bid may not be considered for award. Id.

Here, we find that a preponderance of the evidence does not establish that ISE delivered its bid to the bid depository room prior to 2 p.m. The contracting officer and the agency official assigned to accept the delivery of hand-carried bids checked the bid depository room 15 seconds before 2 p.m. and saw no one in the room. Further, the employee who time-date stamped ISE's bid package states that, while in room 246, he saw the ISE representative walking toward the bid depository room at 2:02 p.m. Then about 15 seconds later, the individual reappeared and asked if the employee knew the place to drop off bids. The employee states that, at this time, he stamped the protester's bid and directed the protester to the conference room. Another Air Force employee also states that he saw the ISE representative arrive at the depository room at 2 minutes after 2 p.m. Further, we note that the protester apparently is confused as to the distinction between the bid depository room, which was designated as room 249 in the IFB, and the bid opening room, which was not designated in the IFB. Since only the bid depository room was designated, the fact that bid opening occurred in another room does not support the protester's argument that the bid opening room was changed without notice. Accordingly, we do not find that a preponderance of the evidence establishes that the individual from ISE arrived at the depository room prior to the 2 p.m. bid opening time.

Further, we have held that a late bid should not be evaluated if the bidder significantly contributed to the late receipt by not acting reasonably in fulfilling its responsibility of delivering a hand-carried bid to the proper place by the proper time, even though lateness may have been caused, in part, by erroneous government action or advice. J.E. Steigerwald Co., Inc., B-218536, supra; Monthei Mechanical, Inc., B-216624, Dec. 17, 1984, 84-2 CPD ¶ 675. Here, a significant cause of the late delivery of ISE's bid was that ISE did not allow sufficient time for delivery because it mistakenly believed that the bid opening time was at 2:30 p.m. Accordingly, we cannot conclude that the late delivery of ISE's bid resulted from such extraordinary delay or misdirection by government personnel as to permit its exception from the rule that a late bid may not be considered for award. Id.

The protest is denied.



James F. Hinchman  
General Counsel