

118917

**DECISION**



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

**FILE: B-206796**

**DATE: July 7, 1982**

**MATTER OF: Cecile Industries, Inc.**

**DIGEST:**

Telegraphic bid modification, Government time/date stamped 3 minutes after bid opening, which if considered would make protester low bidder, was properly rejected as late, notwithstanding information from Western Union purporting to show that it was delivered prior to bid opening, since only acceptable evidence to establish timely receipt in IFB is time/date stamp of Government installation.

Cecile Industries, Inc. (Cecile), protests the rejection of its bid modification as late and the award of a contract to Tennier Industries, Inc. (Tennier), for sleeping bags under invitation for bids (IFB) No. 8FCB-B3-DW-D7362-A, issued by the General Services Administration (GSA). Cecile maintains that its telegraphic modification, which reduced its bid price, was received by GSA prior to bid opening. Cecile contends that the bid modification made Cecile the low responsive bidder and, thus, the company was entitled to award. Alternatively, Cecile contends that if the modification was late, the lateness was due to Government mishandling.

We find no merit in Cecile's contentions and deny the protest.

Bid opening was scheduled for and conducted on March 12, 1982, at 11:30 a.m., local time, central standard time (c.s.t.) at GSA Region 8, Denver, Colorado. GSA's procedure for receiving a message is to remove the message from the equipment upon receipt, time/date stamp it and deliver it to the designated office. The contracting officer did not consider the modification because it was time/date stamped at 11:33 a.m., local time.

Cecile claims its telegraphic bid modification was delivered to GSA at 1:19 p.m., eastern standard time (e.s.t.), 11 minutes prior to the opening time of 11:30 a.m., c.s.t. Cecile supports its claim with Western Union records. However, the Western Union computer printout is largely unintelligible and the protester's explanation of the document is inconsistent. Cecile contends that the printout shows that its message was both transmitted and delivered to GSA at 1:19, e.s.t. Cecile refers to one portion of the printout as indicating GSA's acknowledgment of receipt of the message at 1:19 p.m., e.s.t. However, that portion of the printout cannot be identified as indicating a time of receipt by GSA. GSA maintains that the agency time/date stamp is accurate.

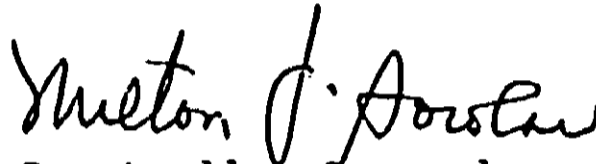
Under the terms of standard form 33-A (clause 7, Late Bids, Modifications or Withdrawal of Bids), incorporated by reference into the IFB, a late bid or modification is one received in the office designated in the IFB after the exact time set for bid opening. Under form 1424, which is part of the IFB, the time of receipt of a telegraphic modification is the time stamped by Government personnel at the local GSA Communications Center. Standard form 33-A, clause 7(c), provides that the only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp at the installation. We have stated that records maintained by Western Union as proof of the inaccuracy of a time/date stamp are unacceptable. Keco Industries, Inc., B-204869, April 7, 1982, 82-1 CPD 324. Since the only acceptable evidence to establish the time of receipt of the modification, the GSA time/date stamp, indicates that the modification was received at 11:33 a.m., c.s.t., the contracting officer properly determined that the modification was late.

As to Cecile's alternative argument, standard form 33-A, clause 7(a)(2), provides that a late modification may be considered if it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

Cecile alleges that if the modification was late, the lateness was due to GSA's failure to remove and stamp Cecile's bid modification upon receipt. In

a late bid or modification situation (where a bid arrives in the office designated for receipt after opening), before we can consider the question of mishandling, the time of receipt at the Government installation prior to bid opening must be established. Bill Bouska Construction, Inc., B-196786, December 21, 1980, 80-2 CPD 411; Monitor Northwest Company, B-193257, June 18, 1979, 79-1 CPD 437. Since the only acceptable evidence of receipt is the GSA time/date stamp, which was 3 minutes after bid opening time, receipt of the modification prior to bid opening cannot be established. Thus, the question of mishandling is irrelevant.

The protest is denied.



Acting Comptroller General  
of the United States