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**DECISION**



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

**FILE:** B-218226.2 **DATE:** March 15, 1985

**MATTER OF:** All-States Railroad Contracting,  
Inc.--Reconsideration

**DIGEST:**

Prior decision is affirmed on reconsideration where protester has not shown any error of law or fact which would warrant reversal of that decision.

Transco Pacific Company (Transco) requests reconsideration of our decision in All-States Railroad Contracting, Inc., B-216048.2, Feb. 11, 1985, 85-1 CPD # \_\_\_\_\_, where we held that a hand-carried bid that was deposited in the designated bid box on time, but did not reach the bid opening room before bids were opened because the bid depository was not checked on schedule, was not a late bid. Transco is the incumbent contractor, having been awarded the contract when the agency decided that the protester's bid was late. Transco alleges that our decision contains errors of fact and law which warrant its reversal. We affirm our prior decision.

The protest involved a bid opening held at 2 p.m. on July 25, 1984. The IFB specified that hand-carried bids delivered before 1:30 p.m. were to be deposited in the "Bid Depository" in room 13A01, 819 Taylor Street, Fort Worth, Texas. Bids delivered after 1:30, however, were to be deposited in the bid depository in room 13A08. Ronald Banks, Operations Manager for All-States, reported that he entered room 13A01 with All-States' bid sometime between 1:10 and 1:14 on July 25, informed the secretary at the front desk that he had a bid, and was directed to place it in the locked bid depository located behind a screen in the front office.

Our decision recounted Mr. Banks' statement that he left the premises after submitting the bid and that he later telephoned to inquire about the bid results. We stated that upon being told that Transco was the apparent low bidder, Mr. Banks asked why All-States' bid for a lower amount had not been accepted. It was then ascertained that bids had last been removed from the bid box in room 13A01

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at 1 p.m. and that the bid opening officer, Ms. Hubbard, had neglected on this one occasion to check the box as scheduled at 1:30.

Transco objects to our statement that Mr. Banks "later telephoned to inquire about the bid results." Transco has concluded that our decision was based on an erroneous assumption that this phone call was made on the afternoon of bid opening day when, in fact, it was made the following morning. Transco argues that it is significant that All-States "then had the remainder of the afternoon of July 25, 1984, and the morning of July 26, 1984, to place its bid in the bid box and thereafter claim that its bid had been placed there prior to 1:30 on July 25."

We did not assume that the call was made on bid opening day and, therefore, Transco's conclusion is incorrect.

Further, the passage of time between when the bids were opened and when it was discovered that the agency had not checked the bid depository is irrelevant to our decision since we concluded that All-States' bid was actually deposited on time.

Transco also argues that the record does not support the statement in our decision that "no one in room 13A01 remembers anyone coming into the bid depository area after 1:30." We disagree. United States Army Corps of Engineers (Corps) personnel reported that a man entered room 13A01 at approximately 1:10 and did not report anyone appearing in the office at a later time. The logical inference from this statement is that no later bidders were reported because none were seen. This inference was informally confirmed as accurate by Corps personnel before we issued our decision.

Finally, Transco contends that our decision contains errors of law in light of earlier Comptroller General decisions in this area. In support of this, Transco has repeated verbatim the arguments it presented in support of the initial protest. The cited cases do not present any principles of law not considered in our initial decision.

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Since Transco has not shown any error of fact or law in our prior decision, it is affirmed. Simulators, Limited, Inc.-- Reconsideration, B-215091.2 et al., Sept. 25, 1984, 84-2 CPD ¶ 355.

*Milton J. Fowler*  
for Comptroller General  
of the United States