

DECISION

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

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FILE:

B-218594

DATE: June 26, 1985**MATTER OF:**

R.M.B. Products

DIGEST:

A delivery receipt prepared by a private courier cannot be used to determine whether a bid is late, because the only acceptable evidence to establish the time of receipt of a bid at a government installation is the time/date stamp of the installation or other documentary evidence of receipt maintained by the installation.

R.M.B. Products (RMB) protests the rejection of its bid as late by the Defense Industrial Supply Center, Defense Logistics Agency (DLA), under invitation for bids (IFB) No. DLA500-85-B-0826, covering a requirement for boat fenders. We deny the protest.

The IFB imposed a deadline for the receipt of bids at 10 a.m., local time, March 21, 1985. The record shows that RMB dispatched its bid on March 20 with a private courier which guaranteed overnight delivery to DLA by 9 a.m. on March 21. DLA's records show that RMB's bid was received and its bid wrapper stamped with a time/date stamp by a DLA mailroom employee immediately upon receipt at 10:44 a.m. on March 21--44 minutes after the time set for bid opening. The Agency rejected RMB's bid as late and refused to consider it for award.

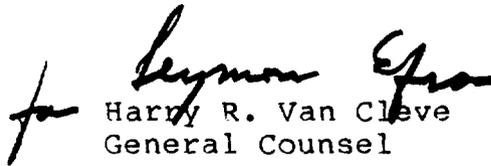
RMB protests that its bid was received by a mailroom employee at the contracting agency at 8:50 a.m. on March 21, as indicated by the commercial courier's receipt. The record shows that the DLA mailroom employee printed only her name on the commercial courier's receipt and that the time and date were entered on the receipt by the courier's delivery person after delivery was made. Admitting that "[N]either of us can know which of these times were accurate," the protester marshals such circumstantial evidence as the delivery person's next log entries and the non-sequential log entry of its bid by the Agency as support for its alleged timely delivery of its bid.

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DLA contends that the private courier's records are not those of a disinterested party. DLA also points out that its copy of the commercial carrier receipt contains a time/date stamp on its reverse side which shows receipt at 10:45 a.m. on March 21--1 minute after the time stamped on the bid wrapper. DLA also argues that, while the order of log entry does not reflect the order of receipt, the fact that it was entered in DLA's "late log" shows that the bid was indeed late.

While the facts are in dispute, the legal principle controlling disposition of the protest may be clearly stated. The only acceptable evidence to establish the time of receipt of a bid at a government installation is the time/date stamp of the installation or other documentary evidence of receipt maintained by the installation. Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.304-1(c) (1984); Alaska Media Productions, B-218177, Apr. 18, 1985, 85-1 C.P.D. ¶ 446; and Allied Electric Inc., B-216548, Mar. 12, 1985, 85-1 C.P.D. ¶ 304. Consequently, we have held that the records of a commercial carrier showing delivery to the agency's installation prior to bid opening are insufficient to establish that the bid, in fact, was received by the agency prior to bid opening. Alaska Media Productions, B-218177, supra; Qualimetrics, Inc., B-213162, Mar. 20, 1984, 84-1 C.P.D. ¶ 332 at 4.

The time/date stamp and all other documentary evidence of receipt maintained by the DLA installation show RMB's bid was received no earlier than 10:44 a.m. on March 21, 1985. Accordingly, the bid was properly rejected as late.


Harry R. Van Cleve
General Counsel