



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: United Tractor Company

File: B-231127

Date: April 29, 1988

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### DIGEST

Protest that a late, hand-carried best and final offer was improperly rejected is dismissed where the protester cannot attribute the lateness to any fault of the government or otherwise establish such rejection to be unreasonable.

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### DECISION

United Tractor Company protests the refusal by the Naval Regional Contracting Center, Philadelphia, Pennsylvania, to consider United's late best and final offer (BAFO) under request for proposals (RFP) No. N00140-87-R-0025.

We dismiss the protest.

The solicitation in question is a multi-year requirement for 1,820 tractors. United submitted an initial proposal on August 12, 1987, which the agency determined to be in the competitive range. The Navy informed the offerors in the competitive range by letter received by United on February 22, 1988, to submit best and final offers no later than 4:00 p.m. on March 15.


United explains that because vendor quotes were coming in "at the last minute," it was decided that a United representative would hand-carry the BAFO to Philadelphia. The scheduled flight to Philadelphia was delayed, however, whereupon the General Manager for United telephoned the contracting officer's representative to inquire whether the BAFO would be accepted if delivered late. His response was that they would have "to wait and see." United's proposal was tentatively accepted and time stamped at 4:23 p.m. By letter dated March 21, the contracting officer informed United that its BAFO would not be opened or considered for award since it was received 23 minutes after the closing time for BAFO receipt.

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United admits that its BAFO was late. Furthermore, United does not claim that the lateness was attributable to any fault of the government; therefore, the conditions specified in the solicitation's standard "Late Submissions, Modifications, and Withdrawals of Proposals" clause, Federal Acquisition Regulation (FAR) § 52.215-10 (FAC 84-17), under which a late BAFO may be considered, do not exist here. United argues, however, that the agency's refusal to accept a BAFO that was late by only 23 minutes was unreasonable since the firm expended much effort and resources to submit its BAFO and since the BAFO was late by only a few minutes.

We dismiss the protest under section 21.3(m) of our Bid Protest Regulations, 4 C.F.R. § 21.3(m) (1988), for failure to state a valid basis for protest. A proposal modification received after the time set for receipt of BAFOs generally may be considered only under the circumstances stated in the solicitation. Scientific Systems, Inc., B-225574, Jan. 6, 1987, 87-1 CPD ¶ 19 (BAFO time-stamped 5 minutes late properly rejected). In this case, United does not dispute that consideration of its late BAFO was not permitted under the terms of the solicitation.

The protest is dismissed.

  
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Deputy Associate  
General Counsel