

Mr. Has Further

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**DECISION**



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

FILE: B-202954

DATE: June 26, 1981

MATTER OF: Charles R. Wolfe, Inc.

**DIGEST:**

Late bid sent by certified mail less than 5 days prior to bid opening was properly for consideration under late bid clause, since late receipt was due to mishandling of bid in mailroom after timely receipt there.

Charles R. Wolfe, Inc. (Wolfe), protests the award to a bidder whose bid was received after the bid opening on Soil Conservation Service (Department of Agriculture) invitation for bids (IFB) No. SCS-28-TX-81.

We have decided that the protest has no merit.

As of the 10 a.m., March 30, bid opening, only the bid of Wolfe had been received at the office designated in the IFB. At 10:50 a.m., a bid from Carl Miller (Miller) was received at that office. The Miller bid was determined to have arrived late because of Government mishandling. Government mishandling was found to exist because the bid sent by certified mail to the proper address had been received and time-stamped in the agency mailroom at 8 a.m. and the mailroom clerk who sorted the mail failed to notice that the envelope indicated it contained a bid. The mailroom advised that, if the envelope had been recognized as containing a bid, it would have been delivered to the designated office shortly after 8 a.m. Because the late receipt was determined to be due to Government mishandling, the bid was opened and found to be the lowest received. Subsequently, award was made to Miller.

Wolfe contends that the Miller bid should not have been accepted for award because it was not mailed 5 days prior to bid opening as required by the IFB late bid clause. However, the late bid clause provides in

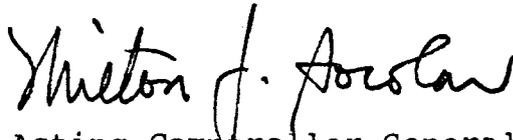
*[Protest Against Agency Acceptance of Awardee's Late Bid]*

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the alternative that a late bid may be considered where "the late receipt was due solely to mishandling by the Government after receipt at the Government installation." See Gross Engineering Company, B-193953, February 23, 1979, 79-1 CPD 129. Since the late receipt in this case was due solely to the mishandling of the bid in the mailroom after timely receipt there, it was properly for consideration under the late bid clause.

Wolfe also states that it called the contracting agency before 10:30 a.m. on the bid opening date and was told that no other bids had been received. In view of that advice, Wolfe contends that the Miller bid should not have been accepted. However, the acceptance of a late bid is controlled by the provisions of the late bid clause referred to above and information furnished to Wolfe prior to 10:30 a.m. on the bid opening date cannot affect the acceptability of the Miller bid.

Accordingly, the protest is denied.



Acting Comptroller General  
of the United States