

**DECISION**

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

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**FILE:** B-217415 **DATE:** March 26, 1985  
**MATTER OF:** American McGaw Division, American  
Hospital Supply Corporation

**DIGEST:**

Protester's bid, delivered by commercial carrier, properly was rejected as late where record shows bid was delivered to an office other than the one designated in the IFB and was not clearly identified as a bid, since improper government action was not the paramount cause for the late receipt.

American McGaw, a division of American Hospital Supply Corporation, protests the rejection of its bid under invitation for bids (IFB) No. DLA120-85-B-0002 for the supply of sodium chloride irrigation to the Defense Personnel Support Center (DPSC), Defense Logistics Agency. The bid was rejected because it was not received at the bid opening office until after bid opening at 2:00 p.m., November 15, 1984.

We deny the protest.

The IFB instructed bidders to deliver hand-carried offers, "including delivery by commercial carrier," to the DPSC, Offer Depository, Bldg. 9, 4th Floor, Wing F, 2800 South 20th Street, Philadelphia, Pennsylvania 19101. It also advised bidders to mark the bid envelope with the solicitation number, date and time set for bid opening.

American McGaw placed its bid in an envelope to which it affixed a pre-printed address label provided by DPSC. The bid envelope was, in turn, placed in a standard envelope used by Federal Express. The Federal Express envelope was addressed to the person identified in the IFB as the DPSC purchasing agent, at the address provided in the IFB for delivery of hand-carried bids.

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Rather than delivering American McGaw's bid to the address on the envelope, Federal Express delivered it to the DPSC Main Mail and Distribution Room located in another building at the installation. It was received at the mail room at 12:02 p.m. on the day of bid opening. Instead of delivering the Federal Express envelope by messenger to the appropriate procurement officials, as provided by DPSC mail room procedures, mail room personnel used routine internal distribution procedures. The purchasing agent received the bid at 3:30 p.m., after the 2:00 p.m. bid opening. American McGaw was subsequently notified that its bid was considered to have been submitted late and would not be considered for an award.

A bid delivered by Federal Express or other commercial carrier is considered to be hand-carried, and if it arrives late, it can only be considered if improper government action was the paramount cause for the late receipt, and if consideration of the late bid would not otherwise compromise the integrity of the competitive bidding system. Olympia USA Inc., B-215139, May 21, 1984, 84-1 CPD ¶ 535.

American McGaw argues that its bid arrived late because of mishandling by DPSC mail room personnel. The protester contends that the purchasing agent's name and the address of the office for hand-carried deliveries was sufficient notice that the envelope contained a bid. DPSC responds that mail room personnel handled the bid as routine mail because the envelope did not indicate that a bid was enclosed and was merely addressed to an individual whose office is at the same address as that for receipt of hand-carried bids. Also, DPSC points out that a typographical error in the address--"Offer Depository" was typed as "Office Depository"--may have contributed to the fact that mail room personnel did not treat the envelope as a bid.

We think that the paramount cause of the late receipt of American McGaw's bid was the fact that the envelope was addressed to an individual and displayed no evidence that it contained a bid other than the notation "Office Depository." Although DPSC had procedures for prompt delivery of bids from the mail room to the bid opening location, there was nothing to notify DPSC mail room personnel that the envelope contained a bid. See Edmonds Electric Co., et al., B-213145, et al., Apr. 24, 1984, 84-1 CPD ¶ 468. Moreover, although DPSC did not

emphasize that fact, we believe that delivery of the bid to the mail room also contributed to its late receipt. Delivery of an envelope to a bid opening location on the day of bid opening is some evidence that the envelope may contain a bid, and procuring officials may be expected to ascertain whether the envelope in fact contains a bid. See Robbins Fence Co., B-200987, Apr. 6, 1981, 81-1 CPD ¶ 259. Here, Federal Express failed to deliver the American McGaw bid to the address to which hand-carried offers were required to be delivered, and the bid did not arrive in the bid opening area until more than an hour after bid opening. Consequently, we do not believe that late receipt of the protester's bid resulted from improper government action, and the bid may not be considered by DPSC.

American McGaw contends that we addressed a similar situation in Canyon Logging Co., B-209429, Apr. 1, 1983, 83-1 CPD ¶ 343, holding that an agency was responsible for the late delivery of a bid to purchase timber. In that case, a bidder had clearly identified the bid envelope as containing a bid, including the sale name, bid date and bid opening time, but the bidder had delivered the envelope to the wrong installation. The agency forwarded the bid to the proper office in sufficient time for it to have been received before bid opening. The individual forwarding the bid to the proper office, however, enclosed it within two internal mail envelopes so that it was unrecognizable as a bid. We held that this action was the paramount cause of the bid being received late. In this case, the Federal Express envelope was not clearly identified as containing a bid, and we do not believe that it is reasonable to attribute the same degree of causation to DPSC's routine handling of the bid here as we did to the agency's action in Canyon Logging Company.

Another case cited by the protester, Robbins Fence Co., B-200987, supra, is also distinguishable. In that case, an envelope which was not identified as containing a bid was, nevertheless, delivered to the proper room several hours prior to bid opening. We do not believe that the delivery of American McGaw's unidentified bid to the wrong building 2 hours prior to the time for receipt of bids imposes the same obligation on the agency to open the envelope and ascertain its contents that we believe existed in Robbins Fence Co. See Edison Electronics Division, Armtec Industries, Inc., B-202342, June 10, 1981, 81-1 CPD ¶ 478.

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The protest is denied.

*for* *Seymour Efron*  
Harry R. Van Cleve  
General Counsel