



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Larry J. Robinson & Company, Inc.

File: B-234991

Date: June 13, 1989

DIGEST

Bid delivered to contracting agency's central switchboard area before bid opening but not received at location specified in solicitation until after bid opening properly was rejected as late where paramount cause of late delivery was bidder's failure to ensure that label identifying contents of envelope and indicating bid opening date and time was visible on bid package as required by solicitation.

DECISION

Larry J. Robinson & Company, Inc., protests the rejection as late of its bid under solicitation No. 695-29-89, issued by the Department of Veterans Affairs (VA) for chemical cleaning, paint removal, exterior carpentry and exterior painting at the Clement J. Zablocki Veterans Administration Medical Center (VAMC), Milwaukee, Wisconsin. Robinson states that its bid should not be rejected as late since it was received and signed for by government personnel in the office designated in the solicitation on Saturday, March 18, 1989, 2 days prior to the March 20 bid opening date.

We deny the protest.

The solicitation required that bids be delivered by 10 a.m., on Monday, March 20, to Room C-121 of the VAMC. The solicitation also required bidders to complete and affix to the bid envelope Optional Form (OF) 17, a label identifying the contents of the envelope as a sealed bid and showing the solicitation number and bid opening date.

VA states that Robinson's bid was delivered by Federal Express on Saturday, March 18, to the VAMC switchboard, the location which receives overnight mail deliveries at the VAMC. Robinson had attached the OF 17 label to its bid envelope, but since that envelope was enclosed in the outer Federal Express envelope, the label was not visible.

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However, the Federal Express mailing label on the outer envelope contained the typewritten notation, "BID DOCUMENTS ENCLOSED."

VA states that packages delivered on weekends to the VAMC are held until Monday morning. At that time, attempts are made to have weekend deliveries picked up by addressees as soon as possible after 8 a.m. The contracting officer states that VAMC switchboard personnel are trained to give any letter or package with OF 17 attached special attention to ensure prompt delivery. Because this form had not been attached to Robinson's Federal Express package, the switchboard personnel handled it routinely. As a result, the contracting officer did not receive Robinson's bid until approximately 12:40 p.m., on March 20, 1989, after bid opening at 10 a.m. Consequently, VA rejected Robinson's bid as late.

Robinson argues that since its bid was received in the office designated in the solicitation prior to bid opening, it should not be considered late. Robinson also contends that the package in which its bid was delivered clearly stated on its face that it contained bid documents, and that this was sufficient to alert VAMC personnel that it contained time-sensitive materials.

As a general rule, a bidder is responsible for delivering his bid to the proper place at the proper time. Chemical Waste Management, Inc., B-215382, Sept. 10, 1984, 84-2 CPD ¶ 274. Bids delivered by commercial carrier are regarded as hand-carried bids. Scot, Inc., 57 Comp. Gen. 119 (1977), 77-2 CPD ¶ 425. Late hand-carried bids may be considered only where it can be shown that the government's action was the paramount cause for the late arrival of the bid at the designated place. Chemical Waste Management, Inc., B-215382, supra.

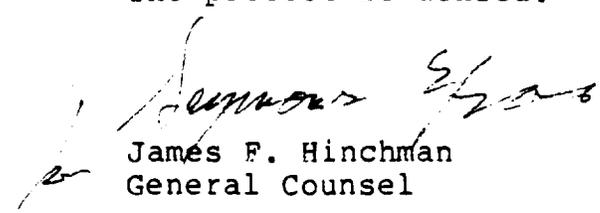
In this case, Robinson's agent, Federal Express, delivered its bid to the VAMC switchboard and not Room C-121, as required by the solicitation. Accordingly, Robinson's argument that its bid was delivered to the location specified in the solicitation before bid opening is without merit.

Further, Robinson failed to attach OF 17 to the bid package so that it was in clear view of VAMC personnel. Instead, Robinson relied on the typed notation, "BID DOCUMENTS ENCLOSED," on the Federal Express label to identify the package as a time-sensitive bid. Had OF 17 been attached as required by the solicitation, it would have put the VAMC personnel on notice that prompt delivery to the contracting

officer was required, since it clearly identified the bid opening date and time. Since OF 17 was not attached to the outer envelope and the Federal Express label did not identify the solicitation number or bid opening date or time, there was no reason for the VAMC switchboard personnel to assume that the envelope was intended for the bid opening at 10 a.m., on March 20. Rather, the VAMC personnel reasonably handled the package routinely, as a result of which it was delivered to the contracting officer after bid opening.

Under these circumstances, we find that the paramount cause of the delay in delivering the bid was Robinson's failure to ensure that the OF 17 was visible on the package as required by the solicitation, not any mishandling by VAMC personnel. As a result, VA properly rejected Robinson's bid as late since it was not received in the location specified in the solicitation by bid opening.

The protest is denied.


James F. Hinchman
General Counsel