

DECISION

Hasturt
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548
2441

FILE: B-209575

DATE: March 7, 1983

MATTER OF: Standard Mfg. Inc.

DIGEST:

1. Where only documentary evidence as to time of receipt of bid at Government installation shows it was received after bid opening, it is not necessary to reach the issue of Government mishandling.
2. Late bid sent by Express Mail may not be considered under late bid clause exception that permits consideration of bids sent by mail where late receipt of bid was due solely to mishandling by Government after timely receipt at installation since documentary evidence indicates that receipt of bid by contracting agency was after bid opening.

Standard Mfg. Inc. (Standard) protests the rejection of its bid on the basis of its late receipt under Defense Logistics Agency, Defense Personnel Support Center (DPSC), invitation for bids No. DLA100-82-B-1122. We deny the protest.

Standard states that it mailed its bid by United States Postal Service Express Mail on the afternoon of October 4, 1982, and that the Express Mail receipt shows, and the Postal Service advised Standard, that it was received at DPSC at 9 a.m. on October 5. Bid opening was at 2 p.m. on October 5. The bid envelope was not received by the bid officer until shortly after 7 a.m. on October 6. Since DPSC had 5 hours prior to bid opening to deliver the Standard bid to the appropriate contracting officials, but did not, Standard contends its bid was received late by the bid officer due to Government mishandling and should have been considered for award under the late bid provisions of the solicitation.

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Standard also states, with this procurement as an example, that the Federal procurement system is not supposed to result in preferential treatment being afforded any bidder, and yet the opposite result occurs as regards manufacturers in the West. Bid/specification documents, Standard states, are often received by these manufacturers with insufficient time remaining before bid opening to submit timely bids. This places these manufacturers at a disadvantage vis-a-vis contractors closer to the procurement agency.

DPSC contends that the Standard bid was properly rejected as late and was not for consideration under the invitation's late bids clause exception that permits consideration of bids sent by mail (or telegram if authorized) where the late receipt of the bid was due solely to mishandling by the Government after its timely receipt at the installation. DPSC states the Standard bid was not received at the installation until after bid opening. According to the receipt notation placed on the Express Mail bid envelope by the security guard at the installation who received the envelope from the Postal Service, the envelope was received by him at 8:13 p.m. on October 5. Further, the Postal Service advised DPSC in writing that the Standard Express Mail envelope was delivered to DPSC at 9 p.m., not at 9 a.m.

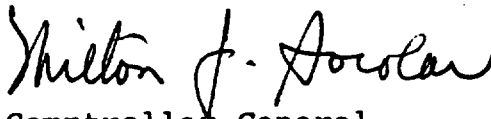
The late bid clause of the solicitation permits consideration of a bid not received prior to bid opening if it is received prior to award and it is determined that late receipt was due solely to Government mishandling after receipt at the Government installation. However, the time of receipt at the installation must be established before considering the question of Government mishandling. (The only acceptable evidence of receipt at the Government installation under DAR § 7-2002.2 is the time/date stamp or other documentary evidence maintained by the installation.) Keco Industries, Inc., B-204869, April 7, 1982, 82-1 CPD 324.

Standard supports its assertion that the bid was timely received at the installation by stating that the Express Mail receipt shows, and the Postal Service advised Standard, that its bid was received at DPSC at 9 a.m. on October 5. However, the only documentary evidence of the time of receipt is the bid envelope with the notation of receipt by the security guard at 8:13 p.m. on October 5 and the written statement from the Postal Service that the envelope was delivered at 9 p.m. on October 5. Since both times are well

after bid opening, it is not necessary to resolve the conflict as to the exact time of receipt. Consequently, we need not reach the issue of Government mishandling because we have no basis to conclude that the Express Mail envelope containing the Standard bid was received at DPSC before bid opening. United Baeton International, B-200721, February 2, 1981, 81-1 CPD 59.

With regard to Standard's contention that western manufacturers often are given insufficient time to bid on Federal procurements, Defense Acquisition Regulation §§ 2-202.1(a) and (b) (1976 ed.) provide that, as a general rule, unless special circumstances require otherwise, the bidding time permitted bidders shall be "no less than 30 calendar days." In this case, less than 30 calendar days was provided for; however, the record does not indicate if special circumstances existed. In any event, our Bid Protest Procedures provide at 4 C.F.R. § 21.2(b)(1) (1982) that protests based upon alleged improprieties in a solicitation which are apparent (as here) prior to bid opening must be protested prior to bid opening in order to be for our consideration. Standard did not protest this issue prior to bid opening, and any protest now would be untimely and not for consideration.)

Accordingly, the protest is denied.

for 
Comptroller General
of the United States