

**DECISION**

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

*MORRIS*

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**FILE:** B-214041**DATE:** April 17, 1984**MATTER OF:** Treat Wood Products**DIGEST:**

Although bidder was not specifically informed of recent change in Forest Service policy, late bid sent by certified mail 3 days before bid opening was properly rejected under late bid provision which requires certified mail to be sent not later than 5 days before bid opening.

Treat Wood Products (Treat) protests the Forest Services's rejection of its late bid for the Upper Richland Timber Sale, Ozark National Forest, Arkansas. We deny the protest.

Bid opening was scheduled for December 19, 1983, at 10 a.m. Treat sent the bid by certified mail on December 16, 1983. The agency advises that, in accordance with its usual procedure, the Forest Service mail clerk checked the Forest Service postal box at 9:45 a.m., on December 19 for bids, but none was there. At about 10:15 a.m., after bids had been opened, the Post Office contacted the Forest Service to advise that Treat's bid was at the Post Office before 8 a.m., but because of the Christmas rush it had not been placed in the postal box until about 10 a.m. The Forest Service determined that Treat's bid could not be considered under any of the exceptions of the late bid clause and consequently rejected it as late.

Initially, Treat argued that the bid was late because it was mishandled by the Postal Service. Later, Treat argued that since the Forest Service failed to give Treat certain advice, its bid should be considered. Treat states that it called the Forest Service on December 16, prior to sending the bid, to inquire whether Treat's bank had mistakenly sent a letter of credit to the agency rather than to Treat. Treat contends that it should have been advised at that time of the Forest Service's new late bid policy. Treat argues, therefore, that its bid should be considered under the old policy.

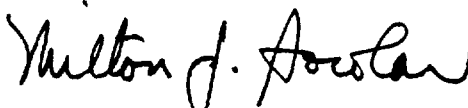
In May 1983 the Forest Service revised its policy of accepting late bids sent by certified mail that are determined to be late due solely to a delay in the mails.

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Under the old policy, bids sent by certified mail not later than 3 days prior to bid opening could be considered even though received late. The new policy requires that the bid be sent not later than 5 days prior to bid opening.

The Forest Service's rejection of the bid was proper. It is the bidder's responsibility to assure timely receipt of its bid and the bidder must bear the responsibility for late arrival unless the specific conditions of the solicitation for consideration of late bids are met. See Sigma Treatment Systems, B-207791, June 21, 1982, 82-1 CPD 613. The solicitation in this case advised bidders that section 2431.74 of the Forest Service Manual governed consideration of late bids. This provision permits the consideration of late bids which are sent not later than 5 days prior to bid opening by certified or registered mail. Since Treat's bid was sent by certified mail 3 days prior to bid opening and received after the exact time stated in the solicitation, it was not entitled to consideration. While it is unfortunate that Treat was unaware of the Forest Service's new late bid policy, we have held that this circumstance does not change the legal consequences of the bids late arrival, even where the bidder is not specifically informed of the change. See Edward E. Mundy, B-212277, August 8, 1983, 83-2 CPD 183. Finally, although Treat alleges that the Forest Service improperly opened its bid, this fact confers no additional rights that would allow consideration of the late bid. See Peter Kiewit Sons' Company, B-189022, July 20, 1977, 77-2 CPD 41.

The protest is denied.

*for*   
Comptroller General  
of the United States

*YE*