

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548****FILE:** B-214330**DATE:** June 5, 1984**MATTER OF:** Age-King Industries, Inc.**DIGEST:**

Where protester alleges that procuring agency lacked sufficient evidence to accept late bid that was mailed 5 days prior to bid opening based on the fact the agency no longer has the original bid wrapper, protest is denied because postmark on the subsequently submitted original postal receipt was acceptable evidence under the solicitation's late bid clause.

Age-King Industries, Inc. (Age-King), protests the award of a contract to F&H Manufacturing Corporation (F&H) for crank handles under invitation for bids No. DLA500-84-B-0164 issued by the Defense Industrial Supply Center (DISC), Philadelphia, Pennsylvania. Age-King alleges that DISC improperly accepted F&H's late bid.

We deny the protest.

Bid opening was 10 a.m., December 5, 1983. When bids were opened, Age-King was the apparent low bidder. However, at 1:01 p.m., on the same day, DISC received F&H's bid. DISC determined that under the IFB late bid clause, the late bid was eligible for award because it was sent by certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids, which was evidenced by the postmark on the bid wrapper. Since F&H's bid was lower than Age-King's, DISC, after determining F&H to be responsible, awarded it the contract. DISC advises that while the initial determination to accept the late bid was based on the date stamp of the post office of origin on the original wrapper, the wrapper subsequently was misfiled, lost, or mistakenly discarded. Nevertheless, DISC also advises that in response to the protest, F&H furnished the original post office receipt which reflected November 30, 1984, as the date of mailing. A copy of the receipt was included as a part of the agency report.

Age-King essentially argues that the fact DISC only has the awardee's original postmarked receipt and not the original wrapper violates Defense Acquisition Regulation

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(DAR) § 7-2002.2, reprinted in 32 C.F.R. pts. 1-39 Vol. II (1983), (clause D-70 of the solicitation), which sets out the acceptable evidence to establish the date of mailing of a late bid. We disagree.

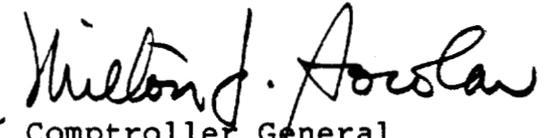
The clause states:

"(c) The only acceptable evidence to establish:

"(i) the date of mailing of a late bid . . . sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the bid . . . shall be deemed to have been mailed late. . ."

The regulation permits the date of mailing of the bid to be established with either the postmark on the wrapper or the original receipt. F&H's original postal receipt is postmarked November 30, 1983, and shows that the bid was mailed 5 days prior to bid opening. Therefore, DISC properly accepted F&H's late bid, since it met the requirements of the late bid clause. While Age-King states that "there is no evidence that this receipt is the actual receipt verifying the mailing of a bid to the agency with respect to the solicitation in question," we find otherwise. The agency record of accountable mail for December 5, 1983, reflects that one article from F&H, certified mail article No. 469529127, was received on the bid opening date. That same number appears at the top of the original postal receipt furnished by F&H. In addition, the agency's contemporaneous late bid record notes that number and the mailing date of November 30 in reference to F&H's late bid. These facts substantiate the validity of the agency's acceptance of the F&H bid.

The protest is denied.

*for*   
Comptroller General  
of the United States