

**DECISION**

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

29001

**FILE:** B-212471**DATE:** August 3, 1984**MATTER OF:** Retsina Company**DIGEST:**

1. Where a solicitation identifies both a post office box and a specific building and room number for receipt of bids, a bid not delivered to the specified room prior to the time set for bid opening is late. Delivery to the post office box is not sufficient since the post office box is merely an intermediate stop in transit.
2. A late bid that does not satisfy any of the conditions of the late bid clause generally may not be considered.
3. A post office box is not a government installation for purposes of the late bid clause.

Retsina Company protests the rejection of its bid submitted in response to invitation for bids (IFB) No. R6-18-83-421, issued by the Willamette National Forest, Oregon. The agency rejected the bid because it was late. We deny the protest.

The solicitation was for the purchase and installation of testing equipment. It provided that bids would be received at Room 321 of the Federal Building, 211 East 7th Avenue, Eugene, Oregon, until the time set for bid opening, 2:00 p.m. on July 14, 1983. The solicitation also provided that hand-carried bids would be received in the depository located in the place specified in Block 7 of Standard Form 33, also until the time set for bid opening. The address in Block 7 was

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Post Office Box No. 10607, Eugene, Oregon, 97440.<sup>1/</sup> The solicitation cautioned bidders that late bids would not be considered.

The protester mailed its bid at 5:00 p.m. on July 13, addressed as follows:

"Willamette National Forest  
211 E. 7th Ave.  
(Fed. Bldg. Rm 321)  
P.O. Box 10607  
Eugene, Oregon 97440"

The bid was sent using Express Mail Next Day Service, under which the Postal Service guarantees delivery by 3:00 p.m. the next day. Since Postal Service procedures provide that mail bearing both a street address and a post office box number will be delivered in accordance with the address shown on the line immediately preceding the city and state of destination, United States Postal Service, Domestic Mail Manual § 122.16 (Issue 1, 1979), the Postal Service delivered the bid to the post office box address. The protester's receipt, Label 11B, indicates that "delivery" occurred at 1:15 p.m. on July 14, but does not indicate whether this refers to delivery to the Eugene post office or to the post office box.

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<sup>1/</sup>Although the solicitation provided in effect that bids could be hand-carried to the post office box, we note that United States Postal Service procedures state that only matter that has passed through the mail or official postal notices may be placed in a post office box. United States Postal Service, Domestic Mail Manual § 951.151 (Issue 2, 1980). The solicitation thus described a method of transmitting bids that Postal Service procedures do not permit. Since the purpose of specifying a place to which bids may be hand-carried is to accommodate bidders who either choose to or must forego using the mails, we think the solicitation should have specified a particular building and room number for the submission of hand-carried bids. In this case, however, since the protester chose to mail its bid, the failure to specify a room number for the submission of hand-carried bids was of no consequence.

The agency reports that on July 14, Willamette National Forest mailroom personnel picked up all mail in Post Office Box No. 10607 at approximately 1:00 p.m. There were no bids in the box at that time. At 2:00 p.m., the two bids that had been timely received were opened. Sometime after bid opening, a representative of the protester called the contracting officer concerning the results of the bidding. The contracting officer informed the representative that no bid from Retsina had been received. Agency personnel received Retsina's bid at the Eugene post office at the time of the next day's usual morning pick-up. The contracting officer rejected the bid as late and returned it to the protester, unopened, at the time of award. See Federal Procurement Regulations (FPR), 41 C.F.R. § 1-2.303-7 (1983).

The protester contends that its bid was not late and thus should have been opened and considered for award. The protester argues that its bid was hand-carried by its authorized agent, the United States Postal Service, and that the Express Mail receipt indicates delivery at the place specified in the solicitation for receipt of hand-carried bids at 1:15 p.m., 45 minutes prior to bid opening. Alternatively, should we conclude that its bid was late, the protester says that the bid should be considered nevertheless because the lateness was due to government mishandling. The allegation of mishandling is based on the agency's failure to check the post office box for bids closer to the 2:00 p.m. time set for bid opening. Implicit in this argument is the protester's belief that had the agency checked the post office box between 1:15 and 2:00 p.m., the bid would not have been late.

The first issue to resolve is whether the protester's bid was late. For this purpose, it does not matter how the bid arrived, only where and when. The regulations provide that a late bid is one received at the office designated in the invitation for bids after the exact time set for the opening of bids. FPR, 41 C.F.R. § 1-2.303-1. The phrase "office designated in the invitation for bids" refers to the ultimate destination of the bid, not to any intermediate stop in transit. See LectroMagnetics, Inc., 56 Comp. Gen. 50 (1976), 76-2 CPD ¶ 371. Where an IFB

provides that bids may be mailed to a post office box, we view the box as merely an intermediate stop in transit, see 49 Comp. Gen. 697 (1970), since the ultimate destination of a bid in a formally advertised procurement is the place of public bid opening and, unless otherwise provided, bids are not opened in the post office. See Honig Industrial Diamond Wheel, Inc., B-214201, July 10, 1984, 84-2 CPD ¶ \_\_\_\_. In this case, bids had to be received in the post office box in sufficient time to be delivered to the place of public opening, Room 321 of the Federal Building, by the 2:00 p.m. deadline. Thus, even assuming that the protester's bid was in the post office box prior to 2:00 p.m.,<sup>2/</sup> since the bid was not received in the designated office until the day after bid opening, it must be regarded as late. FPR, 41 C.F.R. § 1-2.303-1.

Having concluded that the protester's bid was late, we now must determine whether it nevertheless may be considered.

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<sup>2/</sup> As indicated above, although the Postal Service receipt, Label 11B, indicates that "delivery" occurred at 1:15 p.m. on July 14, it is not clear whether the protester's bid--or even a notice concerning it--was actually in the post office box anytime prior to 2:00 p.m. Postal Service procedures provide that when an article of Express Mail addressed to a post office box arrives at the post office, the receiving box clerk enters on Label 11B the date and time he or she receives the article; the clerk places a notice in the box instructing the boxholder to call at the window. United States Postal Service, Methods Handbook, Series M-68, Express Mail Service § 522.3 (1978). Thus, the time noted in this case on Label 11B, 1:15 p.m., indicates only the time the protester's bid was received by the box clerk; the notation does not necessarily indicate the time when the notice was placed in the box. We cannot be sure, therefore, that had the agency checked the post office box closer to 2:00 p.m., it would have known of the protester's bid.

A late bid generally must be rejected unless the specific conditions stated in the solicitation for consideration of late bids are met. Jarrett S. Blankenship Co., B-213270, Oct. 25, 1983, 83-2 CPD ¶ 504. The solicitation here contained the standard late bid clause which stated that a late bid would not be considered unless it was received prior to award and (1) it was sent by registered or certified mail at least 5 days prior to bid opening, or (2) the late receipt was due solely to government mishandling after receipt at the government installation. The protester's bid was not sent by registered or certified mail 5 days prior to bid opening. Express Mail does not come within the first exception stated in the late bid clause. KOH Management and Computer Systems, Inc., B-208683, Aug. 31, 1982, 82-2 CPD ¶ 197. The second exception of the late bid clause also does not apply because the bid was already late when received at the government installation. A post office box is not the government installation for purposes of the late bid clause. The Hoedads, B-185919, July 8, 1976, 76-2 CPD ¶ 21. The protester's late bid, therefore, may not be considered under the terms of the late bid clause.

We have recognized, however, that there may be situations not covered under the late bid clause that justify consideration of a late bid. For example, where a protester can show that government mishandling during the process of receipt (as distinguished from mishandling after receipt) was the paramount reason its bid was late, the bid may be considered. Sun International, B-208146, Jan. 24, 1983, 83-1 CPD ¶ 78. Government mishandling of a bid delivered to a post office box may be found where the agency fails to employ procedures designed to permit timely delivery of the bid to the contracting officer within a reasonable time before bid opening. 49 Comp. Gen. 697 supra. In order to conclude, however, that a bid delivered to a post office box was late solely because of government mishandling, it first must be established that the bid--or at least some notice concerning it--was in the box sometime prior to bid opening. See Utah Geophysical Inc., B-209503, March 22, 1983, 83-1 CPD ¶ 288. As discussed in footnote 2, the record here does not establish this. We need not determine, therefore, whether the agency's

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procedure for transmitting bids from the post office box to the place of public bid opening was adequate or whether the bid was otherwise mishandled by the government.

Since the protester's bid was late, and none of the exceptions permitting the consideration of a late bid applies, the agency properly rejected the bid. We deny the protest.

*for Milton J. Aizlar*  
Comptroller General  
of the United States