

DECISION

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

FILE: B-218094.1 **DATE:** May 1, 1985
MATTER OF: Zagata Fabricators, Inc.

DIGEST:

Action of bidder in not dispatching bid by commercial carrier to a location specifically designated in the solicitation for the receipt of hand-carried bids was paramount cause of late receipt, and bid was properly rejected as late.

Zagata Fabricators, Inc. (Zagata), protests the award by the Army of a contract for shipping and storage containers pursuant to invitation for bids (IFB) No. DAAJ09-84-B-A657. Zagata contends that the Army erred in not considering its low bid which the protester claims was delivered late due to government fault. Zagata requests that its bid be considered for award. In the alternative, Zagata claims bid preparation costs and attorneys' fees.

We deny the protest and claim.

The IFB set forth that bids would be received on November 30, 1984, by 1:00 p.m., at:

"US Army Aviation Systems Command
ATTN: DRSAV-PAEF
4300 Goodfellow Blvd.
St. Louis, MO 63120."

Hand-carried bids were to be delivered to a depository in the "Small Business Ofc., Bldg. 120E 1st Floor."

Zagata delivered its bid by a commercial carrier on the morning of bid opening, November 30, 1984. The package containing Zagata's bid was addressed by apparently combining the aforementioned IFB addresses as follows:

"U.S. Army Aviation Systems Command
ATTN: DRSAV-PAEF
4300 Goodfellow Blvd.
Bldg. 102E. 1st Floor
Small Business Office
St. Louis, MO 63120"

The commercial carrier delivered the package to the post's central receiving facility, where it was time-date stamped as received at "1984 Nov. 30 AM 11:12." The package was subsequently routed to the post's mailroom based on the attention line location and ultimately delivered to the contracting officer on December 3, 1984, the next working day after bid opening.

Zagata alleges that the late delivery of its bid was due primarily to government mishandling, as the package arrived at the central receiving facility over 1 hour before bid opening. Moreover, Zagata alleges fault on the part of the government for issuing the IFB with misleading instructions as the IFB did not reference a street address for the receipt of hand-carried bids and that the combination of the two addresses was required by the IFB.

Bidders are responsible for the timely delivery of their bids, and the late delivery of a bid generally requires its rejection. While the IFB expressly allows exceptions to this rule in certain cases where the bids are mailed, our Office treats late commercially carried bids as late hand-carried bids, and permits their consideration only where it can be shown that some wrongful action by the government was the paramount cause for late delivery, and that consideration of the late bid would not compromise the integrity of the competitive procurement system. Military Base Management, Inc., B-215649.2, Sept. 10, 1984, 84-2 CPD ¶ 275.

We do not find that the government's actions constituted the paramount cause of the bid's late receipt.

First, we note the IFB was clear that the location for receipt of hand-carried bids was different than the location for the receipt of other bids.

Second, regardless of whether we consider the time consumed by the Army in routing the bid package to the contracting officer as contributing to its late arrival, we view the actions of Zagata in not dispatching its carrier only to the location specifically indicated for hand-carried bids as the paramount cause for the late receipt. Where, as here, there is no evidence that the commercial carrier, as the protester's agent, attempted to make a proper and timely delivery to the expressly designated IFB office or that it was prevented from doing so by government personnel, we have held that the government action cannot be said to be the paramount cause for

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the late receipt. Finally, the lack of a street address for the hand-carried bid depository has not constituted government fault in cases similar to this. Chemical Waste Management, Inc., B-215382, Sept. 10, 1984, 84-2 CPD ¶ 274; Southern Oregon Aggregate, Inc., B-190159, Dec. 16, 1977, 77-2 CPD ¶ 477.

Accordingly, because of our decision denying the protest, the claim is also denied.

for *Seymour E. Van*
Harry R. Van Cleve
General Counsel