

**§ 101-45.703-3**

at such address within the control of the selling agency. Such evidence could be a date or time stamp, or a log entry.

**§ 101-45.703-3 Telegraphic bids.**

A late bid submitted by telegraph (where authorized) received before award shall not be considered for award regardless of the cause of the late receipt, including delays caused by the telegraph company, except for a telegraphic bid delayed solely because of mishandling on the part of the Government in its transmittal to the office designated in the invitation for bids for the receipt of bids.

**§ 101-45.703-4 Handcarried bids.**

A late handcarried bid or any other late bid not submitted by mail, telegram, or mailgram shall not be considered for award.

[43 FR 11821, Mar. 22, 1978]

**§ 101-45.703-5 Disposition of late bids.**

A late bid which is not for consideration shall be returned to the bidder as promptly as possible (unless other disposition is requested or agreed to by the bidder). However, an unidentified late bid may be opened solely for the purpose of identification and then only by the contracting officer or his authorized representative. Late bids opened for identification purposes or by mistake shall be resealed in the envelope. The contracting officer or his authorized representative shall immediately write on the envelope his signature and position, date and time opened, invitation for bids number, and an explanation of the opening. No information contained therein shall be disclosed to anyone.

**§ 101-45.703-6 Records.**

To the extent available, the following information shall be included in the contract case files with respect to each late bid:

- (a) A statement of the date and hour of mailing or filing;
- (b) A statement of the date and hour of receipt;
- (c) A mechanical reproduction of the envelope, or other covering, if the late bid was returned, in lieu of paragraphs (a) and (b) of this section;

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(d) The determination of whether the late bid was considered for award, with supporting facts;

(e) A statement of the disposition of the late bid; and

(f) The envelope, or other covering, if the late bid was considered for award.

**§ 101-45.704 Modification or withdrawal of bids.**

(a) Bids may be modified or withdrawn by written or telegraphic notice received by the contracting officer not later than the exact time set for opening of bids (in the instance of sealed bid sales) or not later than the exact time set for the receipt of mailed-in or telegraphic bids (in the instance of spot bid and auction sales where such bids are authorized). A telegraphic modification or withdrawal of a bid received by telephone from the receiving telegraph office not later than the time set for opening of bids shall be considered only if the message is confirmed by receipt of a copy of the written telegram or mailgram which formed the basis for the telephone call. Modifications received by telegram or mailgram (including a record of those telephoned by the telegraph company) shall be sealed in an envelope by a proper official who shall write thereon the date and time of receipt and by whom received, the invitation for bids, number, and his signature. No information contained therein shall be disclosed before the time set for bid opening or for the start of the sale. The term *telegraphic notice* includes modifications and withdrawals submitted by telegram or mailgram. The following statement should be included in all invitations for bids:

The terms *telegraphic bid* and *telegraphic notice* include bids and notices by telegram or by mailgram.

(b) A bid may be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is prior to the exact time set for the opening of bids (in the instance of sealed bid sales) or the exact time set for the start of

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the sale (in the instance of spot bid and auction sales).

[37 FR 24666, Nov. 18, 1972, as amended at 43 FR 11821, Mar. 22, 1978]

### § 101-45.705 Late modifications and withdrawals.

(a) Modifications of bids and requests for withdrawal of bids which are received by the contracting officer after the exact time set for bid opening (in sealed bid sales) or after the exact time set for the receipt of bids (in spot bid or auction sales) are "late modifications" and "late withdrawals", respectively. A late modification or late withdrawal shall be subject to the provisions of § 101-45.703. However, a late modification of the otherwise successful bid shall be opened at any time it is received; and if in the judgment of the contracting officer it makes the terms of the bid more favorable to the Government, it shall be considered.

(b) Mailed-in, telegraphic, and mailgram modifications or withdrawals which are received by the contracting officer after the time set for the start of a spot bid or auction sale shall not be considered, regardless of the cause of delay.

[37 FR 24666, Nov. 18, 1972, as amended at 43 FR 11821, Mar. 22, 1978]

## Subpart 101-45.8—Mistakes in Bids

SOURCE: 32 FR 16270, Nov. 29, 1967, unless otherwise noted.

### § 101-45.800 Scope of subpart.

This subpart prescribes the policies and methods governing the treatment by executive agencies of mistakes in bids by bidders in sales of personal property. The authorities prescribed herein are not intended to nullify previous authorities granted by the Comptroller General.

### § 101-45.801 General.

After the opening of bids, sales contracting officers shall examine all bids for mistakes. Where the sales contracting officer has reason to believe that a mistake may have been made, he shall request from the bidder a verification of the bid, calling atten-

tion to the suspected mistake. If the bidder alleges a mistake, the matter shall be processed in accordance with this subpart 101-45.8. Such actions shall be taken prior to award.

### § 101-45.802 Apparent clerical mistakes.

Any clerical mistake apparent on the face of a bid may be corrected by the sales contracting officer prior to award if the sales contracting officer has first obtained from the bidder verification of the bid actually intended. An example of such an apparent mistake is an error in placing the decimal point (e.g., a bidder bids \$10 each on 10 units, but shows an extended price of \$1,000 or a bidder bids \$0.50 per lb. for 1,000 lbs. but shows an extended price of \$50). Any correction made pursuant to this § 101-45.802 shall be reflected in the award document, if an award is made on the corrected bid.

### § 101-45.803 Other mistakes disclosed before award.

(a) Heads of executive agencies are authorized (with power of redelegation as provided in §§ 101-45.803(b) and 101-45.804(d)), in order to minimize delay in contract awards, to make the administrative determinations described in this § 101-45.803 in connection with mistakes in bids alleged after opening of bids and before award. The authority contained herein to permit correction of bids is limited to bids which, as submitted, are responsive to the invitation for bids, and may not be used to permit correction of bids to make them responsive. This authority is in addition to that in § 101-45.802 or that which may be otherwise available.

(1) A determination may be made permitting the bidder to withdraw his bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake.

(2) However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid as submitted and as corrected is the highest received, a determination may be made to correct the bid and not permit its withdrawal.