

Baltimore, MD by 10:00 a.m. on May 13, 1991.

2. On April 30, 1991, a pre-bid conference was held. At the conference it was emphasized by State personnel all bids were due no later than 10:00 a.m. on May 13, 1991 at the WIC office, 201 West Preston Street, First Floor, Baltimore, MD. Appellant did not attend this conference and on May 10, 1991, Appellant mailed his application.

3. On May 13, 1991, JoAnn M. McGovern of WIC made the following contacts with the DHMH mailroom pertaining to mail sorted for the WIC programs: 9:30 a.m. - telephone call - no mail. 9:45 a.m. - telephone call - no mail. 10:00 a.m. - personal visit - no mail.¹

4. On May 14, 1991, at approximately 2:30 p.m., Appellant's application was present and stamped received.

5. WIC by certified mail on July 3, 1991 notified Appellant his application was received late and Appellant filed a timely protest. On July 30, 1991, the Procurement Officer notified Appellant by certified mail denying the protest on the grounds his application was received after the required due date and time. A timely appeal was filed with this Board on August 9, 1991.

Decision

Appellant, the Board recognizes in its appeal seeks an exception to the requirement that all bids must be received at the designated place, by the designated date and time.

COMAR 21.05.02.10(A) provides "Any bid received at the place

¹ Ms. McGovern beginning April 19, 1991 began to check for WIC applications with the mail room and periodically picked up those that had been received, and by the bid due date of May 13, 1991, WIC had received 483 timely applications.

designated in the solicitation after the time and date set for receipt of bids is late." COMAR 21.05.02.10(B) states: "A late bid, late request for modification, or late request for withdrawal, may not be considered." "[E]xceptions may be made when a late bid, withdrawal, or modification is received before contract award, and the bid, modification, or withdrawal would have been timely but for the action or inaction of State personnel directing the procurement activity or their employees."

Appellant mailed his application on May 10, 1991, one business day before bids were due. From the record before the Board there is no evidence that State personnel activity or inactivity would allow the exception Appellant seeks.

This Board has consistently held that the burden is upon the Appellant to demonstrate with reasonable certainty that the lateness was caused by State personnel directing the procurement activity or their employees. Appeal of Patco Distributors, Inc., MSBCA 1270, 2 MICPEL 128 (1986). This it has not done.

Therefore, the appeal is denied.



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 experimental apparatus and the method of measurement. It is
 shown that the results obtained are in good agreement with
 the theoretical predictions. The second part of the report
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