



Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Envirometrix Corporation

File: B-270766

Date: December 29, 1995

## DECISION

Envirometrix Corporation protests the rejection of its proposal as late by the Department of the Army, Corps of Engineers, Japan, under solicitation No. DACA79-95-R-0004. Envirometrix contends that a Japanese police roadblock prevented it from reaching the location for receipt of proposals prior to the 2:00 p.m. closing time and that it was not initially afforded sufficient time to prepare and submit its proposals.

A late proposal may be considered only where (1) it was sent by registered or certified mail no later than 5 calendar days before the date specified for receipt of offers; (2) it was sent by mail, or, if authorized by the solicitation, by telegram or facsimile, and it was determined that late receipt was due solely to government mishandling after receipt at the government installation; or (3) it was sent by U.S. Postal Service Express Mail Next Day Service no later than 5 p.m. at the place of mailing 2 working days prior to the date specified for receipt of proposals. See Federal Acquisition Regulation §§ 15.412, 52.215-10. Hand-carried proposals may also be considered, even though received late, if the lateness was due to improper government action. The Chappy Corp., B-252757, July 20, 1993, 93-2 CPD ¶ 44.

Here, the protester concedes its proposal was late because of an unforeseen Japanese police roadblock. This roadblock does not constitute improper government action and thus does not provide a basis for acceptance of the late proposal. T.E. DeLoss Equip. Rentals, B-214029, July 10, 1984, 84-2 CPD ¶ 35; Phelps-Stokes Fund, B-194347, May 21, 1979, 79-1 CPD ¶ 366; Data Pathing Inc., B-188234, May 5, 1977, 77-1 CPD ¶ 311, recon. den. July 11, 1977, 77-2 CPD ¶ 14. Therefore, the proposal was properly rejected.

To the extent that Envirometrix argues that it was given insufficient time to prepare its proposal—only 4 business days to prepare its proposal and have it delivered in Japan—this argument is untimely raised. Our Bid Protest Regulations contain strict rules requiring timely submission of protests. These rules specifically require that protests based upon alleged improprieties in a solicitation, such as insufficient time

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to prepare a proposal—which are apparent prior to the closing time for receipt of initial proposals must be filed prior to that closing time. Section 21.2(a)(1), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.2(a)(1)); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324.

The protest is dismissed.

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