

**DECISION**



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

60728

FILE: B-185889

DATE: April 7, 1976

MATTER OF: Defense Products Company

99094

**DIGEST:**

Contention that proposal, which was hand-carried to agency mail services branch before time for receipt of proposals, was late due to Government mishandling is rejected where delivery by air freight firm was to location other than that specified in RFP only 2-1/2 hours prior to time for proposal receipt. In any event, proposal could not be considered under late proposal clause of RFP which allows consideration of late proposals due to mishandling by Government only when proposal has been sent by mail.

Defense Products Company (DPC) protests the rejection by the United States Coast Guard of the proposal submitted by the Recording Institute of America, Inc. (RIA) (the principal of DPC), in response to request for proposals (RFP) No. CG-62,219-A. Award is being withheld pending our resolution of the protest.

The solicitation specified that proposals would be received at Commandant (G-FCP-6/71), United States Coast Guard, 400 Seventh Street, S.W., Washington, D.C., 20590, or if hand-carried, in the depository located in room 7128, until 3:30 p.m., local time, January 21, 1976. The envelope containing the RIA proposal was received in room 7128 at approximately 10:30 a.m. on January 22, 1976. At 11:00 a.m. on January 22, 1976, the envelope was opened for identification, which revealed that it was a proposal in response to the above-mentioned RFP. The envelope was then closed without recording any information as to price.

The protester states that the proposal was delivered at 1:00 p.m. on January 21, 1976, as evidenced by a receipt for the delivery. The protester contends that the late receipt of the proposal was due solely to mishandling by the Government after receipt at Coast Guard Headquarters.

The record indicates that a properly addressed envelope, with the return address of the RIA and containing the protester's proposal was delivered by WITS Air Freight to the Department of Transportation Mail Services Branch at 1:00 p.m. on January 21, 1976. The envelope was not marked to indicate that it was a proposal and it was routinely delivered to the bid desk the next day.

Pursuant to Federal Procurement Regulations § 1-3.802-1(a) (1964 ed. amend. 118), the RFP provides for the treatment of late proposals in pertinent part:

"LATE PROPOSALS, MODIFICATIONS OF PROPOSALS,  
AND WITHDRAWALS OF PROPOSALS

"(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:

"(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier);

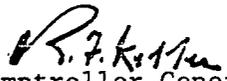
"(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

"(3) It is the only proposal received."

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As mentioned above, the proposal was delivered by commercial carrier. While the RFP allowed for delivery by other than mail, the RFP was clear that hand-carried proposals were to be delivered directly to the depository located in room 7128. Since the proposal was delivered to the wrong location only 2-1/2 hours before closing time, we do not believe the protester has shown that the late delivery of the proposal to room 7128 was due to the Government's mishandling. Moreover, the above-quoted provision of the RFP allows consideration of a late proposal due to Government mishandling only when the proposal has been sent by mail. Since the proposal was sent by commercial carrier rather than by mail, consideration of the late proposal for award would not be proper in any event. See Rocket Research Corporation, B-179405, January 24, 1974, 74-1 CPD 28; Federal Contracting Corp., et al., 54 Comp. Gen. 304 (1974), 74-2 CPD 229; and Greer Hydraulics, Inc., B-182826, April 22, 1975, 75-1 CPD 249.

Accordingly, the protest by DPC is denied.

  
Acting Comptroller General  
of the United States