

5886

J. Notopoulos  
Proc II

**DECISION**



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

**FILE:** B-191008(2)                      **DATE:** April 3, 1978  
**MATTER OF:** State Mutual Book and Periodical  
Service, Ltd.

**DIGEST:**

1. Rejection of proposal which takes exception to solicitation delivery requirement is proper.
2. Protest of solicitation provision which is filed after rejection of proposal is untimely under GAO Bid Protest Procedures and is not for consideration on the merits.

State Mutual Book and Periodical Service, Ltd. has protested the rejection of its offer (which was allegedly lower-priced than that of the successful offeror) under solicitation No. DADA15-78-R-0011, issued by the Department of the Army, Walter Reed Army Medical Center, Washington, D. C., for the supply of foreign medical journals.

According to the protester, its offer was rejected, inter alia, because it took exception to the following solicitation requirement:

\*Deliveries

"(a) All journals must be shipped from the contractor's shipping point in the United States to the library, Walter Reed Army Institute of Research via United Parcel Service or comparable delivery service. Delivery by United States mail is not acceptable \* \* \*"  
(Emphasis added.)

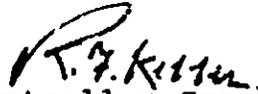
The protester offered to make deliveries through the U.S. Postal Service.

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The protest clearly is without legal merit. The protester's offer contained an exception to a material delivery provision of the solicitation. Rejection of the proposal under such circumstances was proper. See, e.g., Raytheon Company, B-184375, January 28, 1976, 76-1 CPD 55.

To the extent that the protester is actually objecting to the delivery provision itself (the protester implies there is no plausible reason for precluding contractor resort to the United States mails), the protest must be regarded as untimely since under our Bid Protest Procedures, protests based upon alleged improprieties in a solicitation which are apparent prior to closing date for receipt of proposals must be filed prior to such date. See 4 C.F.R. 20.2(b)(1) (1977). Therefore, this aspect of the protest is not for consideration on the merits.

The protest is summarily denied. See Braswell Shipyards, Inc., B-191451, March 24, 1978, 78-1 CPD \_\_\_\_; Western Branch Diesel, Inc., B-190407, December 21, 1977, 77-2 CPD 494 and cases cited therein.

  
Deputy Comptroller General  
of the United States