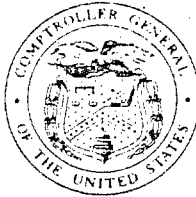


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DECISION



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

FILE: B-199964

DATE: September 3, 1980

MATTER OF: Racon Inc. *CNG 02301*

DIGEST:

1. Protester's late offer was properly rejected by agency notwithstanding mailing via Postal Service "express mail," which guaranteed next-day delivery. Untimely receipt is not shown to be caused by Government mishandling simply because offer arrived in Postal Service facility in city of delivery sufficiently early to allow timely delivery in absence of evidence of mishandling by procuring agency after its timely receipt.

2. Protest is summarily denied where protester's initial submission affirmatively demonstrates that protest is legally without merit.

Against Bid
Racon Inc. (Racon) [protests the rejection] of its offer by the General Services Administration (GSA), *AGC00017* under solicitation No. FCGE-MZ-75143-N-3-7-80 for certain alarm and signal systems. The basis for rejection was that Racon's offer was not received by GSA until March 10, 1980, three days after the March 7, 1980, closing date for the receipt of offers.

The protester contends that its offer should not have been rejected because it was "in no way responsible for the delayed delivery." Racon asserts that, according to Postal Service records, the offer was sent by express mail the afternoon of March 5, 1980, and arrived in Washington, D.C. (the location of the procuring activity), in the late afternoon of March 6, 1980. Delivery to GSA was attempted at that time but was unsuccessful, apparently because the building was closed for the day. For unknown reasons, delivery was not attempted by the Postal Service on the next day, Friday, March 7, 1980. Instead, the offer was delivered the following Monday, March 10, 1980.

The Postal Service "guarantees" delivery of items sent by express mail on the next day after mailing. In

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a letter to Racon, the Postal Service indicated that in this situation, after the unsuccessful delivery attempt, its procedures required that the offer be delivered the morning of March 7, 1980--which would have made it timely. Racon's position is essentially that, under these circumstances, the late delivery was due to Government mishandling.

We believe that GSA properly rejected Racon's offer. The fact that Racon's offer was sent by express mail which guaranteed delivery the next day did not relieve Racon of its obligation to assure timely arrival of its offer. Our Office has consistently held that an offeror has the responsibility to assure timely arrival of its bid or offer and must bear the responsibility for its late arrival unless the specific conditions of the solicitation are met. Gross Engineering Company, B-193953, February 23, 1979, 79-1 CPD 129. Here, the relevant solicitation provision provides that a late offer could be considered if it was "sent by mail * * * 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." There is no evidence that delivery was prevented because the GSA building had been closed prior to the normal closing time. Further, the Postal Service's failure to timely deliver the offer does not constitute mishandling at the Government installation. Graphic Controls Corporation, B-194698, May 23, 1979, 79-1 CPD 373.

Since the protester's initial submission affirmatively demonstrates that the protest is legally without merit, we have decided the protest on that basis without requesting an agency report. Devoe & Reynolds Company, B-197457, February 7, 1980, 80-1 CPD 111.

Accordingly, the protest is summarily denied.

Harry R. Van Cleave
For the Comptroller General
of the United States