

DECISION

17736
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

[Protest of Bid Rejection For Lateness]

FILE: B-202640

DATE: April 13, 1981

MATTER OF: Basin Research Associates

DIGEST:

1. Hand-delivered proposal received at place designated in RFP after time specified for receipt of proposals was properly rejected as late, since offeror has not shown that improper Government action was sole or par-amount cause of late receipt.
2. Late proposal cannot be considered simply on ground that proposal may offer cost advantages to Government over those timely received.

Basin Research Associates (Basin) [protests the rejection of the proposal] it submitted in response to Request for Proposals (RFP) No. R5-SCZ-81-01 which was issued by the Forest Service in cooperation with the Bureau of Land Management for an overview of cultural resources. The procuring activity rejected Basin's proposal [because it was received at the office designated in the RFP approximately 20 minutes after the 3:00 p.m., March 20, 1981 closing time for receipt of proposals.] We believe the rejection was proper.

Emery Air Freight (Emery), [a commercial carrier, hand-delivered Basin's proposal.] Emery [reportedly informed Basin that it delivered the proposal to the "Forest Service premises" before 3:00 p.m. on March 20. Basin therefore suggests that the delay in receipt in the designated office may have been caused by the Forest Service itself.] Basin alternatively contends that its proposal should be considered notwithstanding that it was late because it may be a more cost-effective proposal than that of the eventual awardee.]

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[We have consistently held that the offeror has the responsibility for delivery of its proposals to the proper place at the proper time.] See Federal Contracting Corporation, Taylor Air Systems, Inc., 54 Comp. Gen. 304 (1974), 74-2 CPD 229. A late hand-carried proposal may be accepted only where it has been shown that improper action of the Government was the sole or paramount cause of late receipt, provided that consideration of the proposal would not compromise the integrity of the competitive procurement system. Kealy, Hamilton, Bland & Company, B-196601, November 8, 1979, 79-2 CPD 343; Presnell-Kidd Associates, B-191394, April 26, 1978, 78-1 CPD 324.

[Basin has submitted no evidence that improper Government action was the sole or paramount cause of late receipt. Rather, Basin merely speculates that its proposal, as well as another proposal also delivered by Emery and rejected as late, "may have arrived on the premises of the U.S. Forest Service on time, but Forest Service personnel may have been lax in officially receiving them."] Basin suggests that this hypothetical delay may have been caused by an afternoon work break or by understaffing on the day specified for the receipt of proposals.

However, [the protester has the burden to affirmatively prove its case.] Bowman Enterprises, Inc., B-194015, February 16, 1979, 79-1 CPD 121. [Basin's speculative allegations are not sufficient to meet its burden of demonstrating that improper Government action was the cause of the late receipt.]

[We also find unpersuasive Basin's argument that because its proposal may result in savings to the Government it should be considered notwithstanding the late receipt.] We realize that by application of late proposal rules the Government may lose the benefit of a proposal that offers terms more advantageous than those timely received. Maintenance of confidence in the competitive system, however, is of greater importance than the possible advantage to be gained by considering a late proposal in a single procurement. Data Pathing Inc., B-188234, May 5, 1977, 77-1 CPD 311. [The manner in which the Government conducts its procurements must be subject to clearly defined standards that apply equally to all to ensure fair and impartial treatment.] Thus, there must be a time after which offers may not be received; to permit one offeror to deliver its proposal after the closing date would tend to subvert the competitive system. Phelps-Stokes Fund, B-194347, May 21, 1979, 79-1 CPD 366.

[The protest is summarily denied.]

Milton J. Fowler

Acting Comptroller General
of the United States