

Mrs. Herring

17871

DECISION



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

FILE: B-202615

DATE: April 22, 1981

MATTER OF: Berc Inc.

[Protest of Bid Rejection For Lateness]
DIGEST:

Protester's late bid was properly rejected by agency, notwithstanding mailing via Federal Express service which guaranteed next-day delivery since that is not included in solicitation as condition permitting acceptance of late bid.

Berc Inc. (Berc) protests the rejection of its bid by the Department of the Air Force, Edwards Air Force Base, California (Air Force), under solicitation No. F04700-81-B-0007. Berc's bid was rejected because it was not received by the Air Force until March 2 at 3:43 p.m.--after the specified time for bid opening, March 2 at 2:00 p.m. Berc contends that its bid should be considered because it was sent by the Federal Express Company's guaranteed overnight shipment service on February 27, 1981.

The Air Force properly rejected Berc's offer. The fact that Berc's bid was sent by Federal Express overnight shipment does not relieve Berc of its responsibility to assure timely arrival of its bid. Our Office has consistently held that a bidder has the responsibility to assure timely arrival of its bid and must bear the responsibility of its late arrival unless the specific conditions of the solicitation are met. Gross Engineering Company, B-193953, February 23, 1979, 79-1 CPD 129.

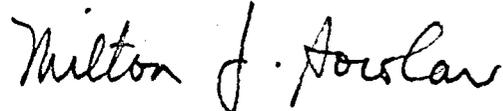
The relevant solicitation provision here provides that a late bid can be considered if it was sent by registered or certified mail not later than the fifth day prior to the bid opening date. We have

~~016646~~ **115023**

held that express mail is not the equivalent of registered or certified mail for purposes of late bid acceptance. Enrico Roman, Inc., B-196350, January 21, 1980, 80-1 CPD 61.

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. Racon Inc., B-199964, September 3, 1980, 80-2 CPD 174.

The protest is denied.

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General
of the United States