

DECISION



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

28300

FILE: B-215139

DATE: May 21, 1984

MATTER OF: Olympia USA Inc.

DIGEST:

Protester's proposal, delivered by commercial carrier, which was late because it was misaddressed to an office other than that designated in the solicitation, was properly rejected since improper government action was not the paramount cause for the late receipt.

Olympia USA Inc. protests the rejection of its offer to supply office machines under General Services Administration (GSA) solicitation No. FGE-D1-75282-N-4-19-84. The offer was rejected because it was not received in the office designated in the solicitation until after 10:30 a.m. on April 19, 1984, which was the time set for receipt of proposals.

We summarily deny the protest.

Olympia concedes that its proposal, sent by Federal Express, was misaddressed to a GSA building that was at least a mile away from the room designated for proposal receipt. Although Olympia's proposal was received at the wrong place by 9:49 a.m. on the proposal due date, it did not arrive at the proper place until after the specified time. Olympia argues that its error should be excused because 1) the firm received the solicitation, issued March 16, only 13 working days before the due date; 2) on April 6 Olympia received an amendment, which did not extend the due date; and 3) GSA actually did receive the proposal on time.

Olympia's offer was properly rejected. An offer delivered to an agency by Federal Express or other commercial carrier is considered to be hand-carried, and if it arrives late, it can only be considered if it is shown that the paramount cause for the late receipt is due to some improper government action.

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B-215139

See Moore's Cafeteria Services, Inc., B-205943, Jan. 12, 1982, 82-1 CPD ¶ 29. An offer is late if it does not arrive at the office designated in the solicitation by the time specified. See Future Tech, B-210601, March 1, 1983, 83-1 CPD ¶ 217. It is apparent that the improper address used by the protester, rather than any improper government action, caused the late receipt of Olympia's proposal at the location designated for the submission of offers.

As to the time Olympia had in which to prepare its offer, absent proof that GSA deliberately attempted to exclude Olympia from the competition, the agency would not be required to set aside the results even if Olympia had never received the solicitation, since the government is not an insurer of the prompt delivery of a solicitation. See Sigma Treatment Systems, B-207791, June 21, 1982, 82-1 CPD ¶ 613. In any event, the record clearly indicates that in spite of Olympia's perceived late receipt of the solicitation, and of the amendment without an extension of the due date, the firm's proposal would have been timely if it had been properly addressed.

The protest is denied.

for Milton J. Fowler
Comptroller General
of the United States