

DECISION

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

FILE: B-219664.2 **DATE:** November 19, 1985
MATTER OF: Discovery International, Inc.

DIGEST:

1. Protester's handcarried proposal which was delivered 45 minutes late because power surges had interrupted its word processing equipment properly was rejected.
2. A late proposal cannot be considered on the basis that the proposal may offer the government certain advantages over those proposals which have been timely received.

Discovery International, Inc. (Discovery), protests the rejection of its late proposal submitted in response to request for proposals No. DAVA01-85-R-0001, issued by the Defense Audiovisual Agency (DAVA) for the procurement of audiovisual services. We dismiss the protest for failure to state a valid basis for protest. 4 C.F.R. § 21.3(f) (1985).

The solicitation, as amended, set 4:30 p.m., August 9, 1985, as the closing date for receipt of initial proposals. Discovery states that as a result of a series of electrical power surges on August 9 which affected the "computer/word processors" upon which it was preparing its proposal, the final preparation of the proposal was delayed by 2 hours. Although Discovery then chartered an airplane and hand-delivered the proposal, it was not received by contracting officials until 5:15 p.m., on August 9, 45 minutes after the closing date and time. Accordingly, DAVA rejected the proposal as untimely.

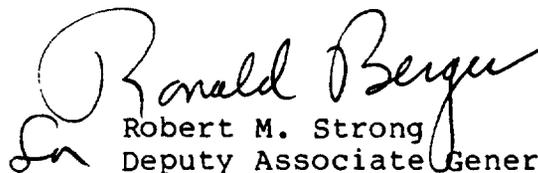
Discovery protests DAVA's rejection of its proposal without evaluation, arguing that the firm is offering the government a unique and advantageous proposal the acceptance of which would "clearly be in the public interest."

Our Office, however, has consistently held that an offeror has the responsibility to assure the timely arrival of its proposal and, accordingly, must bear the responsibility for its late arrival unless specific conditions required for delivery are met. Jack Burney, B-218426, Apr. 24, 1985, 85-1 C.P.D. ¶ 468. The standard solicitation clause concerning late proposals, incorporated by reference in the solicitation, permits consideration of late proposals where a proposal was sent by certified or registered mail at least 5 days prior to the closing date for receipt of proposals, where a proposal was sent by mail and the delay was caused solely by government mishandling after timely receipt at the government installation, or where the proposal was the only proposal received. Federal Acquisition Regulation (FAR), 48 C.F.R. § 52.215-10 (1984). A proposal such as the protester's, which is hand-delivered late, may be considered only if wrongful government action is shown to be the paramount cause of the delay. See Visar Co., Inc., 62 Comp. Gen. 148 (1983), 83-1 C.P.D. ¶ 100.

None of these exceptions applies here. Discovery hand-delivered, rather than mailed, its proposal; it has neither alleged nor shown that the delay was attributable to wrongful government action; and other proposals were received by DAVA.

Moreover, we have held that a late proposal which does not fall under any of the exceptions under which it may be considered must be rejected even though it may be more advantageous than those timely received, since the maintenance of confidence in the integrity of the government procurement system is of greater importance than the possible advantage to be gained by considering a late proposal or modification in a particular procurement. Jack Burney, B-218426, supra, 85-1 C.P.D. ¶ 468 at 3-4.

The protest is dismissed.


 Robert M. Strong
 Deputy Associate General Counsel