



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Scientific Systems, Inc.

File: B-225574

Date: January 6, 1987

---

### DIGEST

Protest that a late, hand-carried best and final offer was improperly rejected is dismissed where the protester admits that the conditions stated in the solicitation for consideration of such an offer did not exist.

---

### DECISION

Scientific Systems, Inc. (SSI) protests the refusal by the Air Force Systems Command, Hanscom Air Force Base, Massachusetts, to accept SSI's late best and final offer under request for proposals (RFP) No. F19628-86-R-0089.

The RFP contemplates the award of an indefinite quantity, indefinite delivery contract for systems engineering and management support services. SSI submitted an initial proposal which the agency determined to be in the competitive range. Following discussions, the agency informed the offerors in the competitive range by letter dated December 5, 1986, to submit best and final offers to the attention of J. Flaherty, room 2A, building 1305 at Hanscom no later than 3:00 p.m. on December 15. SSI states that on December 15 its representative delivered its best and final offer to building 1305 and asked for Mr. Flaherty, who came to the building lobby at approximately 3:05 p.m. and refused to accept the offer because it was late.

SSI admits that its best and final offer was late. SSI admits further that the lateness was not attributable to any fault of the government and that therefore the conditions specified in the solicitation's Late Submissions, Modifications, and Withdrawals of Proposals clause, Federal Acquisition Regulation (FAR), 48 C.F.R. § 52.215-10 (1985), under which a late best and final offer may be considered, do not exist here. SSI argues, however, that the agency's refusal

037730

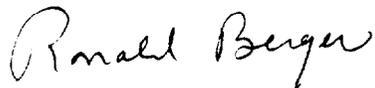
to accept a best and final offer that was late by only 5 minutes was unreasonable since acceptance of the offer would not have afforded SSI an unfair advantage in this procurement. SSI also argues that the government's best interests would be served by an additional request for best and final offers issued to all offerors in the competitive range.

We dismiss the protest under section 21.3(f) of our Bid Protest Regulations, 4 C.F.R. § 21.3(f) (1986), for failure to state a valid basis for protest. A proposal modification received after the time set for receipt of best and final offers generally may be considered only under the circumstances stated in the solicitation. Potomac Systems Resources, Inc., B-219896, Oct. 8, 1985, 85-2 CPD ¶ 393 (best and final offer time-stamped 6 minutes late properly rejected). In this case, as SSI admits, consideration of its late best and final offer was not permitted under the terms of the solicitation.

As the protester points out, the regulations permit a contracting officer to reopen negotiations by requesting new best and final offers when it is clearly in the government's best interest to do so. FAR, 48 C.F.R. § 15.611(c). The decision to do so, however, is discretionary with the contracting officer, and the fact that such discretionary authority exists provides no basis for our holding that SSI's late proposal should have been considered.

SSI has requested that a conference be held on the merits of its protest. No useful purpose would be served by holding such a conference, however, where, as here, it is clear from the initial submission that the protest is without merit. American Hospital Supply, Equipment and Consulting, B-221357, Jan. 22, 1986, 86-1 CPD ¶ 70.

The protest is dismissed.



Ronald Berger  
Deputy Associate  
General Counsel