



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Alden Electronics
File: B-227940
Date: September 21, 1987

DIGEST

A late hand-carried proposal may not be considered unless there is a showing that improper government action was the paramount cause of the late delivery.

DECISION

Alden Electronics protests the rejection of its proposal as late under request for proposals (RFP) No. 52-DDNW-8-00001, issued by the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, for upgrading of its weather wire service. Alden argues that its late proposal should be accepted because the paramount cause of the late delivery was improper government action in that the address provided in the solicitation for submission of hand-carried proposals was misleading.

We deny the protest.

The RFP, issued on March 13, 1987, required hand-carried proposals to be submitted to NOAA's Procurement and Grants Office, 11420 Rockville Pike, Room 205, Rockville, Maryland, by 3 p.m. on May 26. The building is located in a complex of four commercial office buildings, which house both government and commercial tenants. The complex is bounded by Rockville Pike, Nicholson Lane, Security Lane, and Woodglen Drive. Public vehicle access to all four buildings is via Woodglen Drive through which parking is controlled. There are two vehicle access barriers located on Rockville Pike. At these barriers is a sign which states "Exit Only, Entrance and Visitor Parking on Woodglen Drive." Pedestrian access to the complex is not barricaded or controlled at any of the entrances, including the Rockville Pike entrance. There were six different offerors including Alden, responding to the solicitation, all of which hand-carried their proposals for delivery. All but Alden's was timely received.

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Because Alden's proposal consisted of several volumes in multiple copies, it had its proposal hand-delivered by special messenger from Westborough, Massachusetts. On May 26, the day proposals were due, Alden's messenger arrived by taxicab at the indicated address but could not locate the proper entrance for public vehicles. Instead, the messenger had the cabdriver stop at the Rockville Pike entrance nearest NOAA's building while he carried the proposal through the pedestrian entrance to the proper office. Because the proposal was so voluminous, the messenger made several trips between the cab and the building covering a walking distance, according to Alden, of 70 to 100 feet each way. The proposal was time-stamped at 3:05 p.m., 5 minutes late. According to the contracting officer's report, however, Alden's messenger delivered only the proposal cover letter at 3:05 p.m. It was 3:15 p.m., the contracting officer's report states, before delivery was completed of all the volumes of Alden's proposal. Nevertheless, using either the 3:05 or 3:15 p.m. time, the proposal is still considered late since the deadline was 3 p.m.

Late hand-carried proposals may only be considered for award where improper government action--defined as action making it impossible for the offeror to deliver its proposal on time--was the paramount cause for the late receipt and consideration of the proposal would not compromise the integrity of the competitive procurement process. See Carolina Archaeological Services, B-224818, Dec. 9, 1986, 86-2 C.P.D. ¶ 662; Vikonics, Inc., B-222423, Apr. 29, 1986, 86-1 C.P.D. ¶ 419.

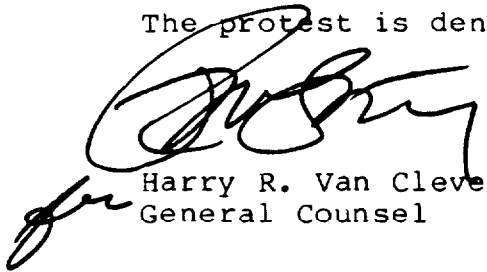
Alden argues that NOAA's use of the Rockville Pike address was improper government action since, it claims, the address listed was not an accessible address and was, therefore, incorrect and misleading. Alden argues that the address listed should have been on Woodglen Drive and that this was the paramount cause of its late delivery. Alden cites a number of our previous decisions in support of this position. We agree, however, with NOAA and find that Alden's reliance on these cases is misplaced because there are significant factual differences.

In all of the cases cited by Alden, the government prevented timely delivery either by changing the place of delivery from that listed in the solicitation without amending the solicitation (Dale Woods, B-209549, Apr. 13, 1983, 83-1 C.P.D. ¶ 396; H.A. Kaufman Co., B-186941, Mar. 4, 1977, 77-1 C.P.D. ¶ 162) or by making an uncorrected error in the solicitation's delivery instructions regarding the address or bid opening time (Avantek, Inc., 55 Comp. Gen. 735 (1976), 76-1 C.P.D. ¶ 75; 48 Comp. Gen. 765 (1969));

Ling Electronics Division, Ling-Temco-Vought, Inc.,
B-151751, Oct. 14, 1963).

The proposal delivery instructions provided by NOAA in the RFP were correct and unambiguous. The address for submission of hand-carried proposals was accessible by both pedestrians and vehicles. The government did not change this address nor did it prevent access to the protester. The other five offerors apparently experienced no difficulties since they were all able to submit their proposals on time. Although vehicular access was more difficult and time consuming than pedestrian access, such a condition is not unusual in both commercial and government buildings and should be anticipated by offerors. There was, thus, no improper government action that could have been the paramount cause of Alden's late delivery. Alden's late proposal was, therefore, properly rejected.

The protest is denied.



Harry R. Van Cleve
General Counsel