

Morrow



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Edward Ochman Systems

File: B-229762

Date: January 7, 1988

DIGEST

Procuring agency's rejection of protester's late proposal delivered by commercial carrier is upheld where the proposal did not meet any of the exceptions for consideration of late proposals in the solicitation's late proposal clause.

DECISION

Edward Ochman Systems (EOS) protests the rejection of its late proposal under request for proposals (RFP) No. FCGE-D2-75419-N, issued by the General Services Administration (GSA). GSA received the proposal 4 hours after the November 10, 1987, 10:30 p.m. closing time. EOS advises that, due to a postal delay, it did not receive a copy of the RFP until the day before the closing. Since EOS sent the proposal by Federal Express on the same day and it arrived only 4 hours late, EOS argues that the late proposal rule should not apply since it could not have gained any preferential advantage.

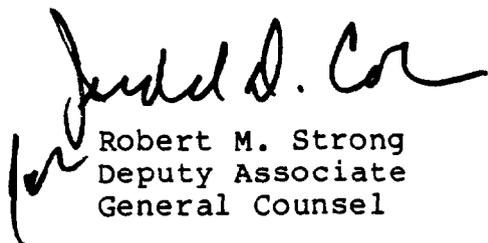
We dismiss the protest pursuant to section 21.3(f) of our Bid Protest Regulations because the protest clearly is without legal merit and therefore does not require the submission of an agency report. 4 C.F.R. § 21.3(f) (1987).

An agency may consider a late proposal that is received after the date required in the solicitation only if: (1) the proposal was sent by registered or certified mail not later than 5 days before the date specified for receipt; (2) the late receipt was due solely to government mishandling at the government installation; or (3) it was the only proposal received. R and J Prosthetic Appliance Co., Inc., B-225994.3, Feb. 24, 1987, 87-1 C.P.D. ¶ 213. The reasons offered by EOS do not qualify its late proposal for an exception. Moreover, an offer delivered to an agency by Federal Express or other commercial carrier is considered to be hand-carried and if it arrives late, can only be considered if it is shown that the sole or paramount cause for the

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late receipt was some government impropriety. Silvics, Inc., B-225299, Feb. 24, 1987, 87-1 C.P.D. ¶ 204.

The protest is dismissed.


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