



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: WESPAC SERCO
File: B-233883
Date: January 13, 1989

DIGEST

Protest that a late, hand-carried best and final offer was improperly rejected is without merit where late receipt was not due to mishandling by the government after receipt at the government installation and protester's proposal could not be viewed as "otherwise successful."

DECISION

WESPAC SERCO protests the refusal of the Air Force to consider its late best and final offer (BAFO) under request for proposals (RFP) No. F64605-88-R-0040 for custodial services at Hickam Air Force Base.

WESPAC submitted its initial proposal on time. In response to the Air Force's request for BAFOs, WESPAC submitted a hand-carried BAFO which it admits was late. WESPAC claims that it is in the best interest of the government to accept its BAFO since it was only 1 minute late and the late proposal clause, Federal Acquisition Regulation § 52.215-10, permits acceptance of a late modification of an otherwise successful proposal that makes its terms more favorable to the government. We do not agree.

The paragraph of the late proposal clause to which the protester refers provides an exception to general rule set forth in paragraph (c) of the clause that a modification resulting from the contracting officer's request for BAFOs received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the government after receipt at the government installation. To invoke the

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exception, however, the initial proposal must be "otherwise successful," that is, the proposal must be in line for award even without consideration of the late modification. See Environmental Tectonic Corp., B-225474, Feb. 17, 1987, 87-1 CPD ¶ 175.

It is clear from WESPAC's protest that the original proposal was not "otherwise successful"; government mishandling also is not an issue here. Accordingly, it is clear from WESPAC's submission that its protest is without legal merit.

Therefore, the protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger".

Ronald Berger
Associate General Counsel