



The Comptroller General  
of the United States

Washington, D.C. 20548

**Decision**

**Matter of:** Ferren-Manuele & Associates, Inc.

**File:** B-235191

**Date:** April 28, 1989

**DIGEST**

Protester's late proposal, sent by United States Postal Service Express Mail 1 day prior to the closing date for receipt of proposals, properly was rejected notwithstanding Postal Service guarantee of next day delivery. Late mailed proposal that is not sent by registered or certified mail 5 or more days prior to the closing date for receipt of proposals can only be considered if there was government mishandling after receipt at the government installation.

**DECISION**

Ferren-Manuele & Associates, Inc. (FMA), protests the rejection of its proposal as late under request for proposals (RFP) No. 1030-970101, issued by the Department of State for litigation support services.

The closing date for receipt of proposals was April 3, 1989, at 3 p.m. According to FMA, it sent its proposal on April 2 via United States Postal Service Express Mail, with the Postal Service guaranteeing next day delivery. However, the Postal Service did not deliver FMA's proposal to the contracting officer until April 4. By letter of April 5, the contracting officer informed FMA that its proposal was rejected because it was received after the closing date for receipt of proposals. This protest followed.

FMA does not dispute the fact that its proposal was late; however, it argues that the proposal should be considered because it was sent by Express Mail, as permitted by the RFP, with the Postal Service guaranteeing next day delivery.

It is the responsibility of the offeror to deliver its proposal to the proper place at the proper time, and late delivery generally requires rejection of the proposal. See Robert R. Nathan Associates, Inc., B-230707, June 28, 1988, 88-1 CPD ¶ 615. A late proposal may be considered only if it was sent by registered or certified mail 5 or more days

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before the date specified for receipt of offers or if the proposal's lateness is due solely to mishandling by the government after receipt at the government installation. See Federal Acquisition Regulation (FAR) § 52.215-10 (FAC 84-17). We note for purposes of this regulation that Express Mail is not considered registered or certified mail. See Human Resources Consulting Service, B-232338, Oct. 11, 1988, 88-2 CPD ¶ 340.

Since FMA here did not mail its proposal until 1 day prior to the closing date for receipt of proposals, and used other than registered or certified mail, FMA assumed the risk that its proposal would not be considered if a delay in delivery occurred. See generally Work Systems Design, Inc., B-223942, Nov. 26, 1986, 86-2 CPD ¶ 613.

Moreover, any delay of an Express Mail delivery by the Postal Service is not considered to be mishandling by the government because the word "government" in the cited provision refers to the procuring agency, not the Postal Service, and the mishandling must occur after the proposal is received at the government installation. See, e.g., Systems for Business, B-224409, Aug. 6, 1986, 86-2 CPD ¶ 164. Here, there was no mishandling by the agency. Therefore, the agency's rejection of FMA's proposal as late was proper.

FMA has requested that a conference be held on the merits of its protest. However, no useful purpose would be served by holding such a conference where it is clear from the initial protest submission that the protest is without merit. See Engineering and Professional Services, Inc., B-228437, Nov. 3, 1987, 87-2 CPD ¶ 439.

The protest is dismissed.

*Ronald Berger*  
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