



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** The Rowland Company

**File:** B-244744

**Date:** October 23, 1991

David Lentz for the protester,  
Vera Meza, Esq., and Larry Miller, Esq., Department of the  
Army, for the agency,  
Steven W. DeGeorge, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

### DIGEST

Protest that agency improperly rejected protester's proposal as late is dismissed since record shows that agency intends to award on initial proposals and protester would not have been the low offeror even had its proposal been considered, thus causing the protester to lack the direct economic interest necessary to protest.

### DECISION

The Rowland Company protests the rejection of its proposal under request for proposals (RFP) No. DAAE07-91-R-D346, issued by the Department of the Army for universal yokes. The proposal was rejected because it was not received at the designated depository for hand-carried offers until after the scheduled closing date.

We dismiss the protest.

The RFP was issued on May 8, 1991, and specified that closing would be on June 10, at 3 p.m. The solicitation directed offerors to submit hand-carried offers to: U.S. Army Tank-Automotive Command, Procurement and Production Directorate, Bid Room-Building 231, AMSTA-IPL, East 11 Mile Road, Warren, Michigan 48397-0001. The solicitation further provided that offers were to be submitted in sealed envelopes or packages showing the solicitation number, closing time and name and address of the offeror.

The protester submitted its proposal by Federal Express. The envelope was not addressed to the location specified for hand-carried offers, but to the contract specialist identified in the solicitation as the Army point of contact for information regarding the procurement.

According to the agency, the Federal Express package was received the morning of June 7, and placed on the contract specialist's desk on or about that date. The agency further reports that for the period June 3 through June 20, the contract specialist was attending a class outside of the office. On June 11, the contract specialist's desk partner noticed and opened the package discovering it to contain a proposal. The proposal was immediately forwarded to the bid opening room where it was marked late and subsequently rejected by the contracting officer.

Five proposals were received in the bid room by the RFP closing date. Based upon an evaluation of these proposals, the agency has determined to make award without discussions to the lowest cost offeror.<sup>1</sup> Actual award has been withheld pending our consideration of this protest.

Under the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551, 3553(a) (1988), and our Bid Protest Regulations, 4 C.F.R. § 21.0(a) (1991), a protester must be an "interested party" before we will consider its protest. To qualify as an interested party, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by the failure to award the contract. Where a protester would not be in line for award if its protest were sustained, it is not an interested party. Engineering Resources, Inc., B-241448.2, Feb. 25, 1991, 91-1 CPD ¶ 205.

In this case, the Army has made a determination to award a contract to the lowest cost offeror on the basis of initial proposals. The record also shows that the protester's proposal is highest in price. Thus, even if the protest were sustained and Rowland's proposal were to be considered, it would not be in line for award. Accordingly, Rowland lacks the direct economic interest necessary to maintain this protest.

The protest is dismissed.



John Brosnan  
Assistant General Counsel

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<sup>1</sup>The RFP included a provision advising offerors that award may be made on the basis of initial proposals.