



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Pacific Meridian Resources

File: B-247142

Date: April 28, 1992

Donald G. Featherstun, Esq., Pettit & Martin, for the protester.
Justin P. Patterson, Esq., and James L. Weiner, Esq., Department of the Interior, for the agency.
James M. Cunningham, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Hand-carried proposal was properly rejected as late where paramount cause of late delivery was that offeror's agent left less than 2 minutes to accomplish delivery of proposal once the agent left her vehicle in the parking lot of the office building containing the proposal depository. Minimal delay resulting from interaction between contracting agency employee stationed at building's reception desk and protester's agent who sought confirmation of procurement office location, is not improper government action which warrants acceptance of the late proposal.

DECISION

Pacific Meridian Resources (PMR) protests the rejection of its proposal as late by the Bureau of Land Management (BLM), Department of the Interior, under request for proposals (RFP) No. 1422H952-RFP2-1004 for a "satellite imagery" project.

We deny the protest.

The RFP, as amended, required submission of proposals by 4:15 p.m. on December 16, 1991, and designated the "depository located in the Branch of Procurement Management, 1300 N.E. 44th Avenue, Portland, Oregon," as the place for receipt of any hand-carried proposals. The RFP provided

that proposals submitted after the exact time specified for receipt would not be considered except for certain proposals transmitted by mail, telegram, or facsimile.

According to PMR, its representative parked "very close" to the designated BLM building at 4:13 p.m. (according to the clock in her vehicle) on December 16 in order to hand-deliver PMR's proposal. The representative states that it took her approximately 30 seconds to run from her truck to the lobby of the building. She then "hurried toward the hallway that leads to the procurement office." Although she states she is familiar with the location of the procurement office, she "asked [at the lobby] reception desk whether the procurement office was in the direction that I was walking" in order "to ensure that [she] was proceeding in the right direction, but did not intend to stop."

At this point, a BLM employee, who had earlier (at about 4:05 p.m.) received a telephone call from another PMR representative about the imminent hand-delivery of PMR's proposal¹ allegedly "stopped" her, "asked [her] whether [she] was there to deliver a proposal," and "proceeded to walk [with the PMR representative] to the procurement office . . . approximately 45 feet from the hallway doors." The PMR representative claims that "this discussion [and accompanied travel] delayed [her] progress . . . by one to two minutes" and that this travel would otherwise have only taken 30 seconds.² Thereafter, PMR's representative arrived at the procurement office at 4:17 p.m. PMR's proposal was then time-stamped at 4:18 p.m., and was therefore rejected as late.

¹The BLM employee states that this other PMR representative advised that she was concerned that her secretary would not be able to get their proposal in on time due to the traffic and that the PMR secretary would not know where to go once she arrived at the BLM office. The BLM employee states that she also agreed with the caller that she would meet PMR's employee in the lobby.

²BLM's employee states that it "took only a few seconds" for her to converse with PMR's representative before "rapidly" walking with her to the procurement office door and that the two of them did not stop to talk, although they did quickly discuss the previous PMR phone call as they walked, nor did they slow down. The BLM employee further states that she only walked with the PMR representative "because [her] route back to [her BLM] office is the same way."

PMR argues that the "interference by [the BLM temporary employee who met PMR's representative at the procurement office's lobby reception desk] caused an approximate 2 minute delay, thus accounting for the [late] arrival [of PMR's representative] in the procurement office."³

An offeror has the responsibility of assuring the timely arrival of its proposal at the place designated in the RFP; however, a hand-carried offer that is received late may be accepted where improper government action was the paramount cause for the late delivery, and the integrity of the procurement process would not be compromised by acceptance of the offer. Wyatt Assocs., B-243349, July 1, 1991, 91-2 CPD ¶ 5. Further, a late proposal should not be considered for award if the offeror significantly contributed to its late receipt by not acting reasonably in fulfilling its responsibility of delivering a hand-carried offer to the proper place at the proper time, even where the lateness may have been caused, in part, by erroneous government action or advice. Seer Publishing, Inc., B-237359, Feb. 12, 1990, 90-1 CPD ¶ 181. In Seer we upheld the rejection of a hand-carried proposal because the offeror left only 2 minutes to get into the federal building, find the correct office, and deliver its proposal, thus causing the late delivery by its own actions.

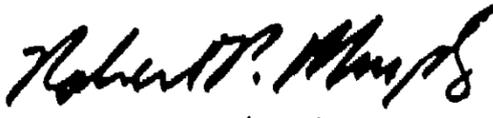
By PMR's own admission, its representative left herself, at most, only 2 minutes to get into the building housing the offer depository, find the correct office, and deliver the proposal. Further, a PMR official phoned ahead and expressed concern to BLM's temporary employee that her secretary "would not know where to go once she arrived at the BLM office" and the PMR official expressed no objection to the announced intention of the BLM employee to meet the PMR representative on arrival to direct her. The PMR representative acknowledges that she inquired at the lobby's reception desk to make sure she was walking in the direction

³Initially, PMR also alleged that another BLM employee had improperly delayed time-stamping PMR's proposal, thereby also contributing to the late receipt of PMR's proposal, once PMR's representative arrived at the procurement office. However, since the record makes it clear that PMR's representative did not appear in the procurement office until 4:17 p.m., 2 minutes after the time established for receipt of proposals, any possible subsequent delay in time-stamping was inconsequential.

of the offer depository. Thus, both PMR's official and its agent for delivery invited interaction at the lobby desk with the BLM employee stationed there.

In our view, the BLM employee acted entirely reasonably. The paramount cause of the late delivery was the failure of the protester's representative to allow sufficient time to ensure timely delivery of its hand-carried proposal. See Wyatt Assocs., supra. The agency employee's attempt to assist the representative in delivering the proposal was appropriate under the circumstances, and does not constitute improper government action requiring acceptance of the late proposal. Econ, Inc., B-222577, July 28, 1986, 86-2 CPD ¶ 119.

The protest is denied.


James F. Hinchman
General Counsel