

Matter of: CSLA, Incorporated

File: B-255177

Date: January 10, 1994

Jeff A. Hale for the protester,
Gary M. Winter, Esq., Agency for International Development,
for the agency.
Paul E. Jordan, Esq., and Paul Lieberman, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Protester's hand-carried proposal, which was delivered via commercial carrier to the mailing address rather than the address for hand-carried proposals, and was received by the contracting officer after the closing time for receipt of proposals, was properly rejected as late where there is no evidence of government mishandling after receipt.

DECISION

CSLA, Incorporated protests the rejection of its proposal under request for proposals (RFP) No. OP-CC-N-93-14, issued by the Agency for International Development (AID). CSLA's proposal was rejected because it was not received by the contracting officer until after the closing time for receipt of proposals. CSLA contends that the agency mishandled its offer and thus should now consider it.

We deny the protest.

The RFP was issued on July 20, 1993, and set a closing date and time of August 23, 1993, at 11:00 a.m. The RFP included two addresses for submission of proposals: one entitled "by mail" and one entitled "by hand." The address for hand-carried proposals was in a different building and place (Arlington, Virginia) from the mail address (Washington, D.C.). CSLA's proposal, delivered by Federal Express on August 23, at 10:04 a.m., was addressed to the AID mail room in Washington. The proposal was delivered to the mail room

in Arlington at 1:30 p.m. that same day. By the 11:00 a.m. deadline on the closing date, 11 proposals were received at the hand-delivery address. AID awarded the contract to the Academy for Educational Development on September 30.

CSLA first contends that it was misled by the agency's terminology in identifying the addresses simply as "by hand" and "by mail." CSLA asserts that "today the term 'mail' is commonly used to refer not only to material handled by the U.S. Postal Service but also to materials transported by other carriers including Federal Express." CSLA, a Louisiana firm, also understood that "by hand" referred to delivery of a proposal by an employee of a Washington-based offeror. Thus, it believed it was following solicitation directions by addressing its Federal Express package to the "mail" address.

CSLA's confusion regarding the RFP delivery requirements provides no basis to accept its late proposal. A proposal 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 for award if it is shown that some government impropriety during or after receipt by the government was the sole or paramount cause of the late arrival at the designated place. The Chappy Corp., B-252757, July 20, 1993, 93-2 CPD ¶ 44.

CSLA also asserts that AID "mishandled" its proposal because AID accepted the proposal at the "by mail" address but did not notify the protester that "by mail" did not include proposals delivered by commercial carriers. To establish that government mishandling was the sole or paramount cause of the late receipt of the proposal, the offeror must first establish that it did not significantly contribute to the late delivery by not allowing enough time to permit a timely submission. Wyatt and Assoc., B-243349, July 1, 1991, 91-2 CPD ¶ 5.

As a general rule, offerors are responsible for delivering their proposals to the proper place at the proper time. International Steel Erectors, B-233238, Feb. 13, 1989, 89-1 CPD ¶ 146. The RFP clearly provided two addresses, one for mail and one for hand-carried offers, and CSLA chose the mail address. Where, as here, the protester dispatches its agent--a commercial carrier--to an address other than that designated for hand-carried proposals, it bears the risk of untimely receipt if the time spent by the agency rerouting the proposal package to the proper location is reasonable. Gould Metal Specialties, Inc., B-246686, Mar. 27, 1992, 92-1 CPD ¶ 311. In this regard, even if the protester had sent its proposal by U.S. Mail, it was responsible to ensure a reasonable time for its proposal to be delivered from the point of receipt to the location designated for receipt of

offers; failure to do so, resulting in late arrival at the designated location, cannot be attributed to governmental mishandling. Bay Shipbuilding Corp., B-240301, Oct. 30, 1990, 91-1 CPD ¶ 161.

According to AID, packages delivered to the Washington address which are destined for a different AID building are forwarded twice daily, in the morning and afternoon. A package delivered to the Washington mail room at approximately 10:00 a.m., is normally delivered to the mail room in Arlington in the afternoon. Here, the package was delivered there at 1:30 p.m. on August 23. The record provides no evidence that the package was unusually delayed in the mail room, or that the mail room personnel acted unreasonably or in other than their normal course of business in delivering the package. Delivery from a building in Washington to a building in Arlington, in less than 2-1/2 hours, is reasonable and not evidence of mishandling or undue delay. See Gould Metal Specialties Inc., supra; Bay Shipbuilding Corp., supra; Wyatt and Assocs., supra.

The protester's failure to allow sufficient time for delivery of its proposal was the cause for its lateness, not government mishandling. CSLA chose to have its proposal delivered to the mail address, in a different building, less than 1 hour before the closing time. CSLA's judgment in this regard did not impose a duty on AID to notify the protester of the consequences of that judgment, Bay Shipbuilding Corp., supra, nor is an agency required to conduct a special messenger service under these circumstances. Gould Metal Specialties, Inc., supra.

The protest is denied.

Robert P. Murphy
Acting General Counsel