



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

Decision

Matter of: Alabama Prosthetics & Orthotics, Inc.
File: B-257309
Date: May 31, 1994

DECISION

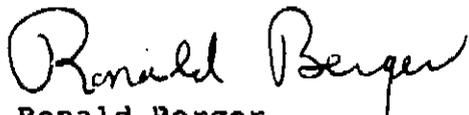
Alabama Prosthetics & Orthotics, Inc. protests the rejection of its proposal as late by the Department of Veterans Affairs under solicitation No. 797DS401137.

The protester challenges the rejection of its proposal, arguing that even though received late, its proposal should be considered for award since the late arrival of its package, sent by United Parcel Service via 2 day air, was caused by bad weather.

A late proposal may be considered only where (1) it was sent by registered or certified mail no later than 5 calendar days before the date specified for receipt of offers; (2) it was sent by mail, or, if authorized by the solicitation, by telegram or facsimile, and it was determined that late receipt was due solely to government mishandling after receipt at the government installation; or (3) it was sent by U.S. Postal Service Express Mail Next Day Service no later than 5 p.m. at the place of mailing 2 working days prior to the date specified for receipt of proposals. See Federal Acquisition Regulation §§ 15.412, 52.215-10.

Here, the protester concedes its proposal was late but that its tardiness was due to extenuating circumstances. Alabama Prosthetics did in fact send its proposal at least 2 working days prior to the due date but did so by United Parcel Service and not the U.S. Postal Service Express Mail Next Day Service. Since this does not invoke any of the exceptions permitting acceptance of late proposals, the agency had no basis to accept the proposal. See Ironhorse Ltd., B-256582, Mar. 4, 1994, 94-1 CPD ¶ 176.

The protest is dismissed.


Ronald Berger
Associate General Counsel