

Matter of: University of Minnesota
File: B-265956
Date: September 14, 1995

A. R. Potami for the protester.
Adam Vodraska, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Where an agency issues a written amendment with an extended due date allowing the protester to resubmit its proposal, the agency is not required to orally notify the protester of the amendment or to remind the protester to resubmit its proposal.

DECISION

The University of Minnesota, Office of Research and Technology Transfer, protests the exclusion of its proposal from the competition under request for proposals (RFP) No. 640-35-95, issued by the Department of Veterans Affairs, Palo Alto Medical Center, for a drug trial laboratory.

We dismiss the protest.

After receiving the RFP, a University official, on July 3, 1995, proposed modifications to the contracting officer. The contracting officer responded by amending the RFP (Amendment 1) and setting a revised proposal due date of July 13. The contracting officer then transmitted a copy of Amendment 1 to the University official by facsimile. After receiving Amendment 1, the University official further discussed certain concerns about the RFP with the contracting officer. Nonetheless, the agency received the University's proposal on July 10.

On August 23, the protester learned that its proposal had not been evaluated and discovered that the agency had earlier returned its proposal, apparently by mail, pursuant to the issuance of another amendment (Amendment 2), which among other things, extended the proposal due date for more than a month. The protester states that it did not discover this fact until after the revised proposal date and upon reviewing its files found that the package from the agency

had been "mishandled" in the protester's office. The protester states that it had "evidence of receiving a package" from the agency, but was unable to locate its contents. The protester complains that the agency did not otherwise notify the University of Amendment 2 or that its proposal needed to be resubmitted, despite the previous telephone and facsimile communications with the agency regarding Amendment 1.

It is the contracting agency's affirmative obligation to use reasonable methods, as required by the Federal Acquisition Regulation (FAR), for the dissemination of solicitation documents, including amendments to prospective competitors. FAR §§ 14.208; 15.410; 15.606. Western Roofing Serv., 70 Comp. Gen. 323 (1991), 91-1 CPD ¶ 242.

Here, since the protester concedes that it actually received Amendment 2, it had the responsibility for assuring timely resubmission of its proposal by the extended due date. See Selrico Servs., Inc., B-259709.2, May 1, 1995, 95-1 CPD ¶ 224. The protester's failure to notice that its proposal had been returned was, as it admits, the result of its own mishandling. The protester does not allege that Amendment 2 was sent or received too late to enable it to resubmit its proposal, or that Amendment 2 was otherwise mishandled by the agency, or that the agency deliberately attempted to exclude the protester from the competition. See Data Express, B-234468, May 25, 1989, 89-1 CPD ¶ 507. Moreover, given that Amendment 2 evidently required that the protester's proposal be resubmitted, we cannot find that the return of the proposal to the protester was inappropriate. Nor can we find any law or regulation that required the agency to provide oral notification of Amendment 2 to the University, or to remind the University to resubmit its proposal.¹ See FAR §§ 15.410; 15.606; Western Roofing Serv., supra.

The protest is dismissed.

James A. Spangenberg
Assistant General Counsel

¹In view of the University's obvious interest, it would have been prudent for the agency to have telephonically advised the University that its proposal had been returned and a revised proposal resubmitted. See Western Roofing Serv., supra.