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**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

FILE: B-190218

DATE: November 23, 1977

MATTER OF: Communicology, Inc.

**DIGEST:**

1. Letter submitted to agency prior to closing date set for receipt of proposals which merely requests an extension of the closing date cannot be considered as timely submitted proposal, and complete proposal submitted 10 days after closing is late and cannot be considered.
2. Agency's refusal to extend date set for receipt of proposals is not arbitrary where record shows that agency had reasonable basis for so refusing and that principal cause of delay in protester's receiving solicitation package was protester's own tardiness.

Communicology, Inc. protests the rejection of its proposal as late by the Naval Electronic Systems Command (NAVELEX) under request for proposal (RFP) N00039-77-R-0038(Q).

Communicology bases its protest on its claim that NAVELEX failed to furnish it with a complete copy of the solicitation in sufficient time for it to submit a proposal by the scheduled closing date. Protester also claims that the agency's failure to extend the closing date was an undue restriction on competition. Alternatively, protester asserts that a letter submitted prior to the closing date should be considered as a timely proposal and that its final submission (a formal proposal) should be treated as a modification to its timely letter proposal. Protester requests that NAVELEX be directed to accept and evaluate its September 23 proposal.

Notice of the solicitation was published in the Commerce Business Daily on July 18, 1977, with a closing date of August 3, 1977. On August 1, 1977 the solicitation was modified and the closing date extended to August 30, 1977. Subsequently, on August 17, an additional amendment to the solicitation was issued and the closing date was extended to September 6, 1977. On August 19, 1977, approximately 1 month after the Commerce

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Business Daily notice and 10 days after the original closing date, protester requested a copy of the solicitation, which NAVELEX states was mailed that same day. A final amendment, which extended the closing date to September 13, 1977, was issued on August 26, 1977 and was mailed to protester. Ten days after it originally requested a solicitation, protester advised NAVELEX that it had not received the RFP. Although invited to pick up another copy, it declined to do so and consequently a second RFP was mailed. It is asserted that the two RFPs were received on September 6, 1977, but that both packages were incomplete because the specification "ELEX-B-253" was missing.

On September 12, 1977 NAVELEX received a letter (dated September 7, 1977) from Communicology which stated in pertinent part:

"Our ability to bid on an equitable basis has been impaired, primarily due to the poor Postal service. In addition, the Bid Room neglected to include a copy of ELEX-B-253 in either bid package.

"Some of our personnel will be out 3 working days over the next two weeks \* \* \*.

"It is therefore requested that the subject bid closing date be extended to October 3, 1977. \* \* \*"

The request for an extension had been previously denied by telephone, prior to the receipt of the above quoted letter. The above letter is claimed to be a statement of the protester's "willingness and ability to manufacture and furnish the equipment required by the solicitation," and thus is claimed to be a "timely proposal submitted in response to the \* \* \* solicitation."

Protester's complete proposal was submitted to NAVELEX on September 23, 1977, where it has been held, unopened, as a late proposal.

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For the reasons set forth below, we concur with the contracting officer's actions in this case.

First, we agree with the Navy's characterization of Communicology's September 7 letter as one which "merely requests an extension of the deadline for submitting proposals" and "does not state a willingness and an ability to furnish anything." Secondly, we do not believe that the refusal to extend can be characterized as an "undue restriction on competition," in view of the Navy's statement that the equipment being procured is destined for placement aboard ships for fleet deployment and that "[t]he movement of those ships is subject to a firm schedule, [and] \* \* \* [a]ny delay in this timetable carries an unacceptable risk that the assigned delivery dates will not be met."

With regard to protester's request to have its September 23 proposal considered, we point out that when due consideration has been given to a request for an extension of the closing date and the request is denied, it would adversely affect the competitive procurement system if a late offer is thereafter permitted to be considered. Falcon Research & Development Co., B-188321, May 4, 1977, 77-1 CPD 306. Moreover, regardless of whether the September 7 letter had offered to perform the contract in accordance with the solicitation as incorporated the complete proposal by reference therein, the September 23 submission was clearly late and could not be considered under the late proposal rules. See Armed Services Procurement Regulation § 3-506. We recognize that by application of the late proposal/notification rules, the Government may lose a proposal that offers terms more advantageous than those received timely. However, the main consideration is the maintenance of confidence in the Government's procurement system rather than the possible advantage to be gained in a single procurement. E - Systems, Inc., B-188084, March 22, 1977, 77-1 CPD 201 (1977).

It appears that the protester's difficulties in this case can be attributed to its own tardiness--waiting almost a month after synopsis of the procurement in the Commerce Business Daily to request an RFP, failing to promptly follow through when the requested RFP had not been received, and declining to pick up a second RFP when the first had not been received in the mails.

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On this record, therefore, we see no basis to question the agency's refusal to extend the date for the receipt of proposals.

The protest is denied.

*R. F. Kester*  
Deputy Comptroller General  
of the United States