

11173 PL-CG

**DECISION**



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

**FILE:** B-195388

**DATE:** August 20, 1979

**MATTER OF:** Leonard Lane Associates

*[Protest of Proposal Rejection as Late]*

**DIGEST:**

Proposal delivered by air courier  
after time specified in RFP for  
receipt of initial proposals due  
to delay caused by grounding of  
DC-10 aircraft was properly rejected,  
since RFP contained no provision for  
its consideration.

Leonard Lane Associates (LLA) protests the  
rejection of its proposal as late by the Department  
of Commerce under request for proposals (RFP) No.  
NA-79-SAC-00742.

The closing time for receipt of initial  
proposals was scheduled for 2:00 p.m., June 25, 1979,  
in a designated room at the Main Commerce Building,  
Washington, D.C. LLA shipped its proposal by air  
courier on June 22. (Due to the problems caused by  
the grounding of DC-10 aircraft, the proposal was not  
delivered until June 26. LLA contends that its pro-  
posal should not be rejected, since there were exten-  
uating circumstances surrounding the delivery.)

Paragraph 8(a) of Standard Form 33-A, "Late  
Proposals, Modifications of Proposals, and With-  
drawals of Proposals," incorporated into the RFP,  
provides for consideration of a late proposal under  
certain conditions. A late proposal may be considered  
if it is received before award is made and it was  
sent by registered or certified mail not later than  
the fifth calendar day prior to the date specified  
for receipt of offers or it was sent by mail (or

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telegram if authorized) and it was determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation. Neither situation is present here.

Our Office has consistently held that an offeror has the responsibility to assure timely arrival of its proposal. Late receipt of an offer will result in its rejection unless the specific conditions of the solicitation are met. H. Oliver Welch & Company, B-193870, February 9, 1979, 79-1 CPD 96. It is our view that (rejection of the proposal was proper. <sup>the</sup> LLA's proposal should have been delivered prior to the closing date for receipt of proposals. The fact that it was sent via an air courier did not relieve <sup>the offeror</sup> LLA of its obligation to assure timely arrival of its proposal.)

In Hot Lake Development Inc., et al., B-192512, August 18, 1978, 78-2 CPD 135, we held that even though two proposals were 25 minutes late in arriving at the contracting activity due to an 18-minute delay in an airline flight and a 7-minute delay in making phone calls concerning the late arrival, they were properly rejected because (there was no provision in the solicitation permitting consideration of proposals received after the designated closing time in the circumstances involved.)

Generally, where it is clear from a protester's initial submission that the protest is without legal merit, we will decide the matter on the basis of the submission without requesting a report from the procuring activity pursuant to our Bid Protest Procedures. H. Oliver Welch & Company, supra. (Therefore, the protest is summarily denied.)

*R. F. K. 11/12*  
Deputy Comptroller General  
of the United States