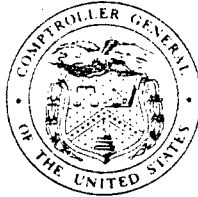


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Refer further



DECISION

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

FILE: B-202525

DATE: April 22, 1981

MATTER OF: St. Charles Manufacturing Co.

DIGEST:

Offeror's proposal delivered to contracting agency by commercial carrier after deadline for receipt of proposals was properly rejected as late; late proposal provision in solicitation is not for application since only offers submitted by mail come within purview of provision.

The St. Charles Manufacturing Co. (St. Charles) protests the rejection of its proposal submitted under Federal Supply Service, General Services Administration, request for proposals No. FCGE-Y5-75159-N-2-17-81. Offerors were required to submit their proposals by 10:30 a.m. on February 17, 1981.

St. Charles gave its proposal to the Federal Express Co. on Friday, February 13, for delivery. The Federal Express Co. was unable to deliver the proposal on Monday, February 16, because it was a Federal holiday. Delivery was made to the contracting agency on February 17. According to St. Charles, delivery was made at 10:45 a.m. According to the agency, delivery was made at 11:30 a.m. In any event, delivery of the proposal to the agency was made after the deadline set for the receipt of proposals and clearly submitted late.)

Accordingly, in order to be accepted by the agency, notwithstanding its late submission, the proposal would have to be for acceptance under the "Late Proposals, Modifications of Proposals, and Withdrawals of Proposals" provision which had been incorporated into the terms of the solicitation. This provision provided, in pertinent part, as follows:

[Protest of Proposal Rejection]

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"(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or a telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation. * * *

(Since the above provision applies only to proposals that have been submitted by mail and the St. Charles proposal was submitted through a commercial carrier and not by mail, consideration of the St. Charles proposal for award would not be permissible and rejection of the proposal was proper.) Federal Contracting Corp.; Taylor Air Systems, Inc., 54 Comp. Gen. 304 (1974), 74-2 CPD 229; O.D.N. Productions, Inc., B-194312, April 13, 1979, 79-1 CPD 267; P.O.B., Inc., B-200538, October 14, 1980, 80-2 CPD 277.

Accordingly, (the protest is summarily denied.)

Milton J. Jordan

Acting Comptroller General
of the United States