

**DECISION**

*Wanniskey*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548 *26058*

**FILE** B-211369**DATE:** August 23, 1983**MATTER OF:** Rosenberg, Freundlich, Levine, Kopp & Truglio**DIGEST:**

1. Protester's late proposal is properly rejected notwithstanding mailing of proposal by certified mail since proposal was mailed less than 5 calendar days prior to date specified for receipt.
2. Even where protester shows by acceptable evidence that proposal was received at Government installation (mailroom) prior to deadline for receipt, late delivery to specific room designated in solicitation has not been shown to be due solely to Government mishandling where, contrary to RFP instructions, envelope bore no indication of date and time scheduled for proposal receipt and where no showing of delay in normal mail distribution process has been made.

Rosenberg, Freundlich, Levine, Kopp & Truglio (Rosenberg) protests the rejection of its proposal as late by the Office of Inspector General, United States Department of Agriculture (Agriculture), under request for proposals (RFP) No. 01G-83-R-7. The protest is denied.

The RFP required proposals to be delivered to room 41-E of Agriculture's Administration Building by 3 p.m. on March 23, 1983. Rosenberg's proposal, sent by certified mail on March 19, was time-date stamped in Agriculture's mailroom at 11:15 a.m. on March 23. The contracting officer rejected the proposal as late, however, because it was not delivered to room 41-E until 4:43 p.m., after the 3 p.m. deadline.

The "Late Proposals, Modifications of Proposals, and Withdrawals of Proposals" clause contained in the solicitation provided, in pertinent part, as follows:

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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 \* \* \*;

(2) It was sent by mail \* \* \* 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.

\* \* \* \* \*

(d) The only acceptable evidence to establish:

\* \* \* \* \*

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper \* \* \*"

Rosenberg contends that its proposal should be accepted as timely since it was received in the mailroom several hours before the deadline and any delay in delivery to room 41-E was caused by Agriculture's mailroom.

Initially, we point out that delivery to the mailroom does not satisfy the requirements of the solicitation. We have held that the "office designated in the solicitation" refers to the ultimate destination of the offer and not to any intermediate stop in transit. Whether an offer is late is measured by its time of arrival at the office designated, here room 41-E, not at the agency mailroom. Lectro Magnetics, Inc., 56 Comp. Gen. 50 (1976), 76-2 CPD 371. Thus, Rosenberg's proposal must be rejected as late unless it falls within one of the above late proposal exceptions contained in the solicitation.

Rosenberg's proposal cannot be considered under the first exception. Although the proposal was sent by

certified mail, it was not sent within the time limits prescribed in the solicitation, or at least 5 days prior to the deadline. See Monarch Marking Systems, B-194257, March 28, 1979, 79-1 CPD 210.

The protester's proposal cannot be accepted under the second exception either. Although the protester has provided acceptable evidence that its proposal was received at the installation on a timely basis, i.e., a time-date stamp of the installation's mailroom (Tom Shaw, Inc., B-209018, February 3, 1983, 83-1 CPD 123), we are not convinced that the late receipt at the specified destination was due solely to the Government's mishandling. Skip Kirchdorfer, B-199628, November 28, 1980, 80-2 CPD 401.

The agency's procedures for expediting mailed proposals require that the date and time for proposal receipt be written on the outer wrapper of a proposal. The RFP clearly stated this requirement, yet Rosenberg failed to include that information on its package. Where, as here, actions of the protester are significant or contributing causes to the delay, we have not permitted acceptance of late proposals. Ads Audio Visual Productions, Inc.; The Public Advertising Council, B-193248; B-193248.2, April 18, 1979, 79-1 CPD 275. Additionally, the protester has offered no evidence suggesting that there was any delay in the normal mail distribution process.

The protest is denied.

for *Harry R. Van Cleave*  
Comptroller General  
of the United States