

DECISION

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

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FILE:

B-213429.2

DATE: July 31, 1984**MATTER OF:**

DPER Corporation--Request for Reconsideration

DIGEST:

Prior decision holding that the protester's late proposal could not be considered is affirmed since protester has provided GAO with no new evidence to show that the contracting agency gave special instructions to the post office which caused the proposal sent by express mail to be delivered late to the agency's installation.

DPER Corporation (DPER) requests reconsideration of our decision in DPER Corporation, B-213429, Feb. 27, 1984, 84-1 C.P.D. ¶ 241, denying the company's protest against the rejection for lateness of its best and final offer under request for proposals (RFP) DTFA-02-83-R-00597 issued by the Department of Transportation, Federal Aviation Administration (FAA).

For the reasons set forth below, we affirm our prior decision.

In our prior decision, DPER contended that the FAA was responsible for its best and final offer being late because the agency issued instructions to the United States Postal Service regarding the delivery of express mail to the FAA complex in Oklahoma City which caused DPER's bid to be delivered late. We held that before the question of government mishandling could be considered, the protester had to establish that receipt of its best and final offer at the government installation occurred prior to the closing date set for receipt of such offers. We found that because the receipt of DPER's best and final offer by the post office was not at the FAA's installation, the FAA did not receive the offer before the closing date specified by the FAA's contracting office.

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In addition, we recognized in our prior decision that there were circumstances not within the contemplation of the RFP's standard form late proposal clause that justify consideration of a late offer such as where there is a clear indication that the contracting agency's mishandling of a proposal during the process of receipt was the paramount cause of the late delivery. Nevertheless, we found nothing in the record that showed any improper action on the part of the FAA which caused the late receipt of DPER's best and final offer. Specifically, we found no evidence to support DPER's allegation that the FAA gave special instructions to the postal service regarding the delivery of mail specifically addressed to the FAA's installation.

DPER argues that we overlooked in our prior decision the effect of a letter it had received from an official in the post office serving the FAA installation. According to DPER, this letter showed the "business relationship" that the FAA has with the postal service regarding the delivery of mail to the FAA's installation. In addition, DPER asserts that our Office has based its decision on the opinions and statements of the FAA only. DPER requests that we contact the postal officials handling the express mail for the FAA installation to find out who authorized express mail to be diverted instead of immediately being delivered to the FAA installation. In particular, DPER asks us to ascertain whether the FAA authorized the diversion of such mail before being sent to its installation.

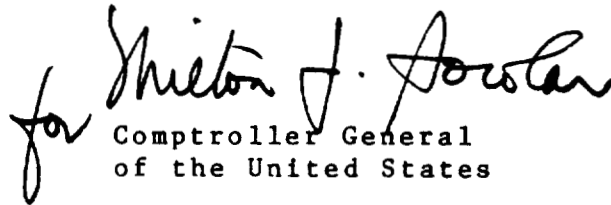
The letter which DPER alleges we overlooked states as follows:

"All mail for FAA is received and dispatched through the military section of the Main Office box section. The mail is dispatched three (3) times daily to the FAA Contract Station mailroom, at 08:05, 11:00, and 15:40. There are presently eight post office boxes for the FAA. Form 1093 for these boxes and 6500 South MacArthur Boulevard indicate that all mail including special delivery be directed to the box section for tie-out and dispatch to contract station 18."

While this letter does state that there was a form 1093 which apparently directed that all mail including express mail was to be routed through the "box section" before

delivery, we find nothing which shows that the FAA was involved in any way with this internal post office procedure. Further, we noted in our prior decision that the FAA had provided us with a copy of the form 1093 it completed with the post office serving its installation. We found that the completed form 1093 contained no special instructions concerning the delivery of mail to the FAA installation.

Our prior decision is affirmed.

for 
Comptroller General
of the United States