

DECISION

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

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FILE: B-215385

DATE: August 14, 1984

MATTER OF: Diesel Energy Systems Co.

DIGEST:

Firm that submitted a bid that was properly rejected for arriving late is not an "interested party" qualified to protest award to the lowest of the remaining bidders.

Diesel Energy Systems Co. (DESCO) protests the award of a contract for five diesel-electric, tractor-mounted generating units by the U.S. Army Corps of Engineers to Power Equipment Inc. under invitation for bids No. DACA78-84-B-0015. DESCO charges that Power Equipment cannot provide the generating units in accordance with the specifications at the price submitted and therefore may have made a mistake in its bid.

The Corps reports that DESCO's bid, sent by Federal Express, arrived the day after bid opening and, therefore, was rejected as late, without protest. In this respect, we have held that an offer delivered to a contracting agency by Federal Express or other commercial carrier must be rejected if it arrives late at the office designated in the solicitation. See, e.g., Future Tech, B-210601, March 1, 1983, 83-1 CPD ¶ 217.

Accordingly, DESCO does not have the direct and established interest that is necessary to make it an "interested party" under our Bid Protest Procedures, 4 C.F.R. § 21.1(a) (1984), to complain about the Corps' acceptance of Power Equipment's bid, since DESCO would not be eligible for award (there were a number of other bidders under the invitation) even if the issues raised were resolved in its favor. See Research Planning Institute, Inc., B-214428, March 12, 1984, 84-1 CPD ¶ 288.

In any case, we note that Power Equipment in fact verified its bid price. Further, we have held that the submission of a bid a competitor considers too low, based on a suspected mistake or on a presumed below-cost

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bid, does not provide a legal basis for precluding an award so long as the contracting agency finds the bidder capable of performing at the bid price, a determination our Office generally does not review. Southwest Truck Body Company, B-208973, Dec. 27, 1982, 82-2 CPD ¶ 580.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel