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# DECISION



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

FILE: B-215382

DATE: September 10, 1984

MATTER OF: Chemical Waste Management, Inc.

## DIGEST:

Acceptance of late proposal delivered by commercial carrier is allowed only if government action is paramount cause of late receipt. When commercial carrier leaves package at central receiving area with no attempt to deliver proposal to designated location for opening, government action is not paramount cause of lateness.

Chemical Waste Management, Inc. (CWM), protests the refusal of the Defense Logistics Agency (DLA) to consider its proposal submitted in response to solicitation No. DLA200-84-R-0012. The proposal was delivered by commercial carrier, but did not arrive in the designated location by the time proposals were due. Since there is no evidence that government action was the primary cause of the late receipt, the protest is denied.

The proposal in question was submitted in response to a solicitation by DLA for services to dispose of hazardous waste from the Defense Property Disposal Offices. Proposals were due in room 57, building 2, of the Federal Center in Battle Creek, Michigan, by 3 p.m. on May 3, 1984. Clause L-21 of the solicitation set forth the conditions for considering late proposals.

CWM's proposal was sent via Air Wisconsin Small Package Air Service. The air bill on the package identified room 57, building 2, of the Federal Center as the place for delivery and noted that delivery had to be made by 2 p.m. on May 3, 1984. The package was received at the loading dock of the federal center at 1:30 p.m. on May 3, 1984, but did not arrive in room 57 until 10:30 a.m., the next day. The contracting officer notified CWM that its proposal was late and would not be considered for award.

On May 29, 1984, CWM filed this protest with our Office, arguing that its proposal should be considered since it arrived at the federal center before the set closing time and would have arrived timely at the designated

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office if loading dock employees had forwarded the package when it was delivered. CWM suggests that an informal arrangement between the loading dock and bid room requires all bids and proposals received from non-United States postal carriers to be forwarded within 30 minutes of receipt.

DLA states that dock employees try to expedite delivery of incoming packages from commercial carriers but this is not expressly required. Furthermore, carriers are not prohibited from making deliveries to other parts of the federal center; therefore, the paramount cause of the late receipt of CWM's proposal resulted, in DLA's view, from Air Wisconsin's failure to deliver the package to room 57, building 2.

The general rule is that an offeror is responsible for delivering proposals to the proper place at the proper time. Late proposals may be considered only as provided for in the solicitation. General Atomic Company, B-202165, May 27, 1981, 81-1 C.P.D. ¶ 415. The provision in the instant solicitation allowing for consideration of certain late proposals applies if the proposals were mailed. Since CWM's offer was not mailed, this provision does not apply.

However, a very narrow exception to the general rule that offerors are responsible for delivery has allowed late hand-carried proposals to be accepted if they were delivered on time, but to the wrong place, if it can be shown that some action by the government was the paramount cause for their late arrival at the designated location. Scot, Inc., 57 Comp. Gen. 119 (1977), 77-2 C.P.D. ¶ 425. In the Scot case, the commercial carrier attempted to deliver a bid to the designated office, but was prevented from doing so by government personnel following internal security regulations.

Government interference or misdirection is not shown in the present case. Even if DLA's loading dock employees can be said to have improperly failed to forward CWM's proposal to the bid room, CWM, through its carrier, Air Wisconsin, is not relieved of its obligation to deliver its proposal on time and to the proper place. There is no evidence that Air Wisconsin, as CWM's agent, attempted to make a proper and timely delivery to the designated office--room 57, building 2--or that Air Wisconsin was prevented from doing so by government personnel at the federal center. Thus, we cannot find that government action was the paramount cause of late receipt of the offer.

Therefore, DLA's refusal to consider CWM's proposal was correct, and the protest is denied.

*for* *Milton F. Aardan*  
Comptroller General  
of the United States