



**The Comptroller General  
of the United States**

Washington, D.C. 20548

SNM 90159  
PL-I

## Decision

Matter of: Creighton & Creighton, Inc.  
File: B-227511  
Date: July 2, 1987

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### DIGEST

1. Proposal that was delivered late to the contracting office because it was misplaced by Federal Express properly was rejected as late.
2. Protest that receipt of the solicitation 6 days before the closing date for receipt of proposals did not allow protester adequate proposal preparation time is untimely, since it was filed after the closing date.

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### DECISION

Creighton & Creighton, Inc., protests the rejection of its proposal as late under request for proposals (RFP) No. DACW72-87-R-0017, issued by the United States Army Corps of Engineers, Institute for Water Resources, Fort Belvoir, Virginia, for group facilitation, conflict management and collaborative problem-solving and training.

We dismiss the protest.

The RFP, issued on May 7, 1987, with a closing time and date for receipt of proposals of 1:30 p.m., June 8, was mailed to Creighton on May 8, by third class mail. Creighton states it received the RFP on June 2, and that on June 6 the contracting officer denied Creighton's telephone request for an extension of the closing date. Creighton states it informed the contracting officer that it would attempt to meet the due date but if unable to do so would formally protest the contracting officer's action.

Creighton did prepare a proposal and on Saturday, June 6, left it with Federal Express for delivery to the Corps by Monday morning, June 8. Creighton called Federal Express on the morning of June 8, and was informed that the proposal package could not be located and had not been delivered. Thereupon, Federal Express and Creighton called the contracting officer to request an extension of the closing

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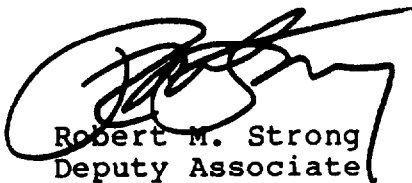
date, but the Corps denied both requests. Creighton's proposal, received by the Corps at 8:51 a.m., June 9, the day after the closing date, was rejected as late.

Creighton protests that its proposal was arbitrarily and unreasonably rejected since the contracting officer should not have sent the RFP by third class mail, and should not have refused Creighton an extension of the closing date. Creighton requests that the Corps now be required to extend the closing date and consider its proposal.

A late offer that was hand-carried by Federal Express or other commercial carrier may be considered only if it was received before the contract is awarded and it is shown that government mishandling after timely receipt at the government installation was the paramount cause for the late receipt. G.M. Coen & Associates, Inc., B-225554, Feb. 12, 1987, 87-1 C.P.D. ¶ 156. Here, however, the delay in receipt apparently was caused by mishandling at the Federal Express facility. The contracting officer therefore properly rejected Creighton's proposal as late.

Creighton's complaint really centers on the Corps' alleged failure to assure prompt delivery of the solicitation and its refusal to extend the closing date at Creighton's request. These are matters relating to solicitation deficiencies, however, and thus should have been protested before the June 8 closing date. Because the protest was not filed until June 18, these arguments are untimely and will not be considered. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1986). We point out in this regard that the FAR does not provide for oral protests, so that Creighton's pre-closing conversations with the contracting officer are not relevant to the protest's timeliness.

The protest is dismissed.

  
Robert M. Strong  
Deputy Associate  
General Counsel