



The Comptroller General
of the United States

Washington, D.C. 20548

135169

Decision

Matter of: Eagle International, Inc.

File: B-229922

Date: March 1, 1988

DIGEST

1. Protest that hand-carried proposal delivered to the opening room of an agency other than the contracting agency was not late because it was in the possession of the federal government before the time proposals were due is denied since to be timely a proposal must be received in the place designated for the receipt of proposals by the required time.

2. Agency's actions did not cause proposal to be submitted late where commercial carrier delivered proposal to the opening office of an agency other than the contracting agency and did not bring the proposal to the room specified in the solicitation until after the closing time for receipt of proposals.

DECISION

Eagle International, Inc. protests the determination by the General Services Administration (GSA) that Eagle's proposal submitted in response to request for proposals (RFP) No. FCAPM-V1-83502-N for passenger buses could not be considered because it was late.

We deny the protest.

The RFP, as amended, set November 24, 1987, 2:30 p.m. as the closing date and time for receipt of proposals. According to the RFP, hand-carried offers were to be delivered to GSA, 7th and D Streets, S.W., Room 1701, Washington, D.C. At 11:05 a.m. on November 24 Eagle called the GSA opening room and was told that its offer had not been received. At 11:15 a.m. Eagle informed GSA that Federal Express had inadvertently delivered Eagle's proposal to room 3633. Room 3633 is a Department of Education bid room located in the GSA building. Federal Express then contacted GSA, approximately 5 minutes later to say that they would send a

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courier to transfer the proposal from room 3633 to room 1701. The proposal was not received by GSA in room 1701 until 3:53 p.m. GSA notified Eagle that its proposal was late and would not be considered.

Eagle alleges that government mishandling caused the late receipt of its proposal. Eagle does not allege that GSA mishandled its proposal but rather that the "federal government" mishandled its proposal because another federal agency improperly accepted it. Alternatively, Eagle contends that its proposal was not late since it was accepted by an authorized agent of the federal government prior to the time set for the receipt of proposals.

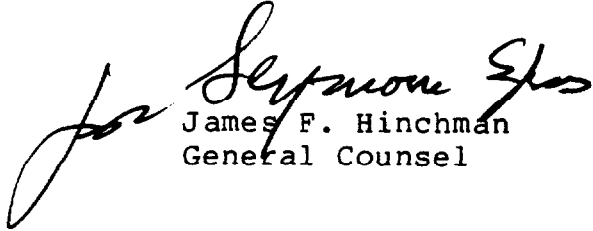
An offer delivered to an agency by Federal Express or other commercial carrier is considered to be hand-carried and, if it arrives late, can only be considered if it is shown that the paramount cause for the late receipt is some government impropriety. G.M. Coen & Associates, Inc., B-225554, Feb. 12, 1987, 87-1 CPD ¶ 156. An offer is late if it does not arrive at the office designated in the solicitation by the time specified. Id. A late bid or proposal cannot be considered if the offeror or its agent significantly contributed to the late receipt by not acting reasonably in fulfilling its responsibility to insure delivery to the proper place by the proper time. Sunohio Co., B-227729, Sept. 10, 1987, 87-2 CPD ¶ 231.

We do not believe that Eagle's agent, Federal Express, acted reasonably in fulfilling its responsibility to insure delivery to the proper place. The RFP designated room 1701 as the office where proposals were to be delivered and Eagle's agent did not deliver it there until after the designated time. Contrary to the protester's contention, receipt by an employee of the federal government at a place other than that designated in the solicitation does not constitute receipt in the procuring agency's opening office. See Carolina Archaeological Services, B-224818, Dec. 9, 1986, 86-2 CPD ¶ 662. Further, we do not find any mishandling on the part of the government. The paramount cause of late receipt was misdelivery by Eagle and its agent and the proposal was therefore properly rejected.

Eagle's argument that rejection of its offer will create a sole-source procurement is not relevant as its offer was

properly rejected, and in any event, according to the agency, several timely proposals were in fact received.

The protest is denied.

James F. Hinchman
General Counsel