

Barlow



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Bio-Metric Systems, Inc.

File: B-234330

Date: February 13, 1989

DIGEST

Where a delay in the delivery of a proposal sent by commercial carrier is due to adverse weather conditions and not improper government handling, agency properly rejected the proposal as late.

DECISION

Bio-Metric Systems, Inc. (BSI), protests the rejection as late of its proposal under Small Business Innovation Research Program solicitation No. 89.1, issued by the Army Medical Research Acquisition Activity, Fort Detrick, Maryland. Proposals were due at 2 p.m., January 6, 1989. BSI's proposal was delivered on January 9.

We dismiss the protest without requiring the submission of an agency report because it is clear from BSI's submission that it has not stated a valid basis for protest. Bid Protest Regulations, 4 C.F.R. § 21.3(m) (1988).

According to BSI, it sent its proposal by a commercial carrier which guaranteed delivery by 12 o'clock noon on January 6. The carrier was unable to meet its commitment because of a winter storm which delayed aircraft operations. BSI argues that but for this "act of God," its proposal would have been received on time.

It is the responsibility of the offeror to deliver its proposal to the proper place at the proper time, and late delivery generally requires rejection of the proposal. Robert R. Nathan Assocs., Inc., B-230707, June 28, 1988, 88-1 CPD ¶ 615. A proposal delivered by a commercial carrier is considered to be hand-carried, and a late hand-carried proposal may only be considered for award where improper government action--defined as government action making it impossible for the offeror to deliver its proposal

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on time--was the paramount cause for the late receipt. Orange Shipbuilding Co., Inc., B-230285, Mar. 9, 1988, 88-1 CPD ¶ 246; Sunohio Co., B-227729, Sept. 10, 1987, 87-2 CPD ¶ 231. Severe weather is not a condition that would permit acceptance of a late hand-carried proposal. Orange Shipbuilding Co., Inc., supra. Accordingly, the Army properly refused to consider BSI's proposal.

The protest is dismissed.



Robert M. Strong
Associate General Counsel