



The Comptroller General
of the United States

Washington, D.C. 20548

re: Bionics

Decision

Matter of: Bionics Orthotics and Prosthetics

File: B-234823

Date: March 28, 1989

DIGEST

Proposal delivered by United Parcel Service after the closing date for receipt of proposals properly was rejected where late delivery was caused by United Parcel Service and not by the government.

DECISION

Bionics Orthotics and Prosthetics protests the determination by the Veterans Administration (VA) that the proposal Bionics submitted in response to solicitation No. M1-Q29-89 was late and would not be considered.

The closing date for receipt of proposals at the VA in Hines, Illinois was December 28, 1988, at 4 p.m. Bionics sent its proposal via United Parcel Service. The contracting officer received Bionics' proposal on December 29, at 11:20 a.m. By letter of February 28, 1989, the contracting officer informed Bionics that its offer was rejected because it was received after the closing date for receipt of proposals. This protest followed.

A proposal delivered to an agency by United Parcel Service 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 sole or paramount reason for late receipt was some government impropriety. See E.D.P. Enterprises, Inc., B-227607.4, Oct. 31, 1988, 88-2 CPD ¶ 412. There is nothing in the protester's submission to indicate that government impropriety was the sole or paramount cause for late delivery of Bionics' proposal. Rather, Bionics' agent,

045023/138299

United Parcel Service, simply failed to timely deliver Bionics' proposal. Bionics' proposal, therefore, was properly rejected as late. Id.

Accordingly, the protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in dark ink and is positioned above the typed name and title.

Ronald Berger
Associate General Counsel