



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pazo's Flying School

File: B-239863

Date: June 18, 1990

Jorge Ortiz Brunet, Esq., Ortiz Toro & Ortiz Brunet, for the protester.

James Vickers, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Proposal delivered by Federal Express to agency 6 hours before time established for receipt of proposals but not routed to contracting office until after time set for receipt of proposals was properly rejected as late where envelope did not contain the proper address nor the solicitation number and time specified for receipt of proposals as required by solicitation. Lack of identification markings and proper address rather than agency mishandling was paramount cause of late delivery.

DECISION

Pazo's Flying School protests the rejection as late of its proposal submitted in response to request for proposals No. DLA600-90-R-0123 issued by the Defense Fuel Supply Center, Defense Logistics Agency.

We dismiss the protest without obtaining an agency report since it is clear from the record that the protest is without legal merit. Bid Protest Regulations, 4 C.F.R. § 21.3(m) (1990).

According to the solicitation, proposals were due by 3 p.m., April 9, 1990, and were to be addressed to Defense Fuel Supply Center, Room 8D197, DFSC-POB, Cameron Station, Alexandria, VA. 22304-6160. The RFP also cautioned offerors that the envelope must be plainly marked with the solicitation number and the date and time set for receipt of proposals.


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Pazo's proposal was sent by Federal Express and was received at the Defense Fuel Supply Center at 9:22 a.m., on April 9, 1990, approximately 6 hours before the time for receipt of proposals. Both the outer Federal Express envelope and the envelope inside containing the proposal were addressed to Defense Fuel Supply Center, Cameron Station, Alexandria, Virginia, 22314. While the proposal envelope contained the solicitation number, according to the agency, the outer Federal Express envelope had neither the solicitation number nor the time set for receipt of proposals. Pazo's proposal was not received at the location designated for the receipt of proposals until after the time set forth in the solicitation.

A proposal delivered to an agency by Federal Express is considered to be hand-carried and, if it arrives late, can only be considered if it is shown that the paramount reason for the late receipt was some government impropriety. E.D.P. Enters., Inc., B-227607.4, Oct. 31, 1988, 88-2 CPD ¶ 412.

Here, it appears that a significant, if not the paramount, reason for the late delivery was the improper address on both envelopes--the protester failed to include the required room number and building designation--and the absence of the solicitation number and time set for receipt of proposals from the Federal Express envelope. Because the envelope did not contain these markings and was not otherwise properly addressed, the agency personnel had no way of knowing that the envelope contained a proposal and required expedited handling. See Human Resources Consulting Serv., B-232338, Oct. 11, 1988, 88-2 CPD ¶ 340. Accordingly, we find no merit to this protest.

The protest is dismissed.


Ronald Berger
Associate General Counsel