



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: van Ommeren & Associates

File: B-257001

Date: August 4, 1994

DECISION

van Ommeren & Associates protests the rejection of its proposal as late under request for proposals (RFP) No. X00-0190, issued by the Department of Justice, Federal Bureau of Prisons for construction management services.

We dismiss the protest.

The RFP called for the submission of proposals by 2 p.m. local time on April 1, 1994. Firms submitting proposals by express mail or by hand delivery were instructed to send their proposals to 500 First Street, N.W., 6th Floor, Washington, D.C. 20534. Firms submitting proposals by mail were instructed to send their proposals to 320 First Street, N.W., Room 5006, Washington, D.C. 20534.

The RFP contained the standard clause appearing at Federal Acquisition Regulation (FAR) § 52.215-10, relating to the late receipt of proposals, which provides that proposals received after the exact time and date specified in the RFP will not be considered unless (1) the proposal was sent via registered or certified mail no later than the fifth calendar day prior to the deadline set in the RFP; (2) the proposal was sent via mail, telegram or facsimile and it is determined that its late arrival was due to government mishandling after receipt at the government facility; or (3) the proposal was sent via U.S. Postal Service Express Mail Next-Day Service at least 2 working days prior to the deadline set in the RFP.

van Ommeren sent its proposal via the U.S. Postal Service's 2-day priority mail service and addressed it to 500 First Avenue, N.W., 6th Floor, Washington, D.C. 20534, the address specified for express mail or hand delivery. van Ommeren's proposal was received by the contracting officer and time/date stamped at shortly after 3 p.m. on April 5. Because the proposal was late and none of the exceptions outlined in FAR § 52.215-10 applied, the contracting officer rejected the proposal as late.

van Ommeren argues that the agency improperly rejected its proposal. The protester contends that, since it mailed its proposal via priority mail on March 28, 5 days before the date set for receipt of proposals, it is reasonable to assume that its proposal was at the facility in time, and that it was through mishandling of the package after its arrival that it was received late.

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. FAR §§ 15.412 and 52.215-10; Austin Telecommunications Elec., Inc., B-254425, Aug. 19, 1993, 93-2 CPD ¶ 108. A late proposal can only be accepted if its receipt qualifies under one of the three exceptions under FAR § 52.215-10 enumerated above.

As an initial matter we note that the protester sent its proposal via 2-day priority mail. This is not one of three specified mail services excepted from the usual late proposal rule. Austin Telecommunications Elec., Inc., *supra*. Consequently, the agency could not properly have accepted the proposal under these exceptions.

As for van Ommeren's speculation that its proposal arrived at the installation prior to the deadline for submitting proposals and was late because of government mishandling, the firm has submitted no evidence to support its position. In this regard, the only acceptable evidence that a proposal has arrived at a government installation is the installation's time/date stamp on the proposal wrapper, or other documentary evidence of receipt maintained by the installation. FAR § 52.215-10 (e). van Ommeren merely assumes that the proposal arrived at the installation on time. The only evidence in the record--the agency's time/date stamp--shows that the package was received by the contracting officer on April 5. Under these circumstances there is no basis for concluding that the proposal was received prior to the closing time and thereafter mishandled by the agency.

The protest is dismissed



John M. Melody
Assistant General Counsel