

01251

## DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-186867

DATE: October 29, 1976

MATTER OF: LectroMagnetics, Inc.

### DIGEST:

1. Determination whether proposal is late is measured by its time of arrival at office designated in the solicitation, and not by time of arrival at agency's central mailroom.
2. A delay of 2 hours and 5 minutes in the transmission of a proposal from central agency mailroom to the designated office does not constitute Government mishandling since the mail distribution was accomplished in accordance with reasonable internal mail distribution procedures.

LectroMagnetics, Inc. (LMI) protests the rejection as late of its proposal on Department of State (State Department) Request for Proposals (RFP) ST 76-61, which contemplated a firm fixed price, indefinite quantity supply contract for radio-frequency shielded enclosures.

Blocks 7 and 8 of Standard Form 33, Solicitation, Offer and Award, for RFP ST 76-61 specified that mailed proposals would be received at the Department of State, Supply and Transportation Division, Room 530, State Annex No. 6, Washington, D.C. 20520. Block 9 specified that hand-carried offers were to be delivered to the depository located at 1701 N. Fort Myer Drive, Arlington, Virginia 22209. Block 9 also required the receipt of all proposals by 3:00 p.m., June 17, 1976. Upon inquiry, this Office has established that State Annex No. 6 is physically located at 1701 N. Fort Myer Drive. Thus, mailed proposals for this RFP went first to the main State Department mailroom in Washington, D.C., 20520, and were then routed to their ultimate mailing address--State Annex No. 6, at 1701 Fort Myer Drive, Arlington, Virginia.

LMI mailed its proposal on June 16, 1976. It arrived at the State Department mailroom in Washington, D.C., at 12:55 p.m.

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on June 17, 1976, yet, although it was handled in accordance with the Department's normal internal mail routing procedures, it did not arrive at the office designated in the solicitation by the specified time of 3:00 p.m. Consequently, it was rejected as late and the proposal was returned to LMI.

Pursuant to Federal Procurement Regulations 1-3.802.1, the following clause was incorporated into the RFP:

"LATE PROPOSALS, MODIFICATIONS OF PROPOSALS,  
AND WITHDRAWALS OF PROPOSALS

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

(3) It is the only proposal received.\* \* \*

To paraphrase LMI's arguments in support of acceptance of its offer, LMI argues that since its proposal was received at the State Department (although not at the designated office) before the time specified by the solicitation, its proposal was not late in any way and thus should be considered. Alternatively, LMI argues that the delay in the State Department's internal mail delivery which, despite its proposal's arrival within that Department's mailroom at 12:55 p.m., caused it to be late for the 3:00 p.m. deadline, constituted mishandling so as to require acceptance of its late offer per FPR 1-3.802-1(a)(2), supra.

We must disagree with both of LMI's arguments. First, we think the phrase "office designated in the solicitation", used in

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FPR 1-3,802(a), supra, has reference to the ultimate destination and not to any intermediate stop in transit. Cf. 50 Comp. Gen. 71, 74 (1970). Thus, the timeliness of a proposal is to be measured from its arrival at the address specified in Blocks 7 and 8 of the solicitation, not from its arrival at an agency's central mailroom, as LMI contends. An offeror must allow sufficient time for a proposal to pass through an agency's central mailroom and reach the specified office by the indicated time. See 49 Comp. Gen. 191, 194 (1969).

Likewise, we do not agree with LMI that the delay in transmission of its proposal from the central State Department mailroom to Annex No. 6 constitutes mishandling. As we stated in B-168210(1), July 10, 1970:

"/w/here bids or modifications are received at one place by the Government for delivery by it to another place specified in the invitation, our Office has held that the Government has a duty to establish procedures calculated to insure that the physical transmission of bids is accomplished within a reasonable time after receipt. The determination of what constitutes a reasonable internal procedure and time for transmission at one Government installation is not necessarily for application at all installations; rather, it is uniquely for determination by the administrative agency involved. Our role must be restricted to determining whether the agency position is arbitrary, capricious, or unsubstantiated."

See also 49 Comp. Gen. 697, 699 (1970); Frequency Engineering Laboratories, B-186390, August 17, 1975, 76-2 CPD 166.

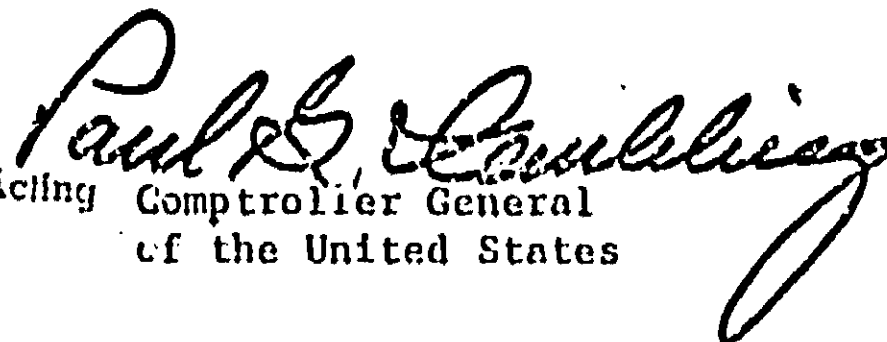
The State Department has concluded in this instance that because Main State is in Washington, D.C. and the specified office is in Arlington, Virginia, mail distributed in accordance with agency procedures resulting in its failure to deliver LMI's proposal to the designated office before 3:00 p.m.--i.e. within 2 hours and 5 minutes after its arrival in Main State--does not constitute mishandling. The State Department's mail distribution procedures under the circumstances have not been shown to be unreasonable and

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therefore we agree that the late receipt of the proposal has not been due solely to mishandling by the Government.

Parenthetically, LMI's predicament could have been avoided had LMI sent its proposal by registered or certified mail no later than the fifth calendar day prior to the date specified for receipt of proposals, FPR 1-3.802-1, supra. Although LMI interprets the 5-day requirement as a "penalty", the fact remains that by using this method an offeror can be sure that its mailed offer will be considered.

The protest is denied.

  
Acting Comptroller General  
of the United States