

Proc II

**DECISION**



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

10,424

FILE: B-194831

DATE: June 11, 1979

DLG 01769

MATTER OF: Synergensis Corporation

*[Protest of Bid Rejection For Late Delivery]*

DIGEST:

1. Proposal received after closing date for receipt of initial proposals was properly rejected as late where it was not mailed by any of prescribed methods and it was not only proposal received.
2. Allegation of antitrust violation is matter for consideration by Department of Justice, not GAO.
3. Where initial submission reveals protest has no legal merit, decision will be rendered without obtaining agency report.

Synergensis Corporation (Synergensis) protests the rejection by the Defense Communications Agency (DCA), Defense Commerical Communications Office (DECCO), of its late proposal submitted in response to request for proposals (RFP) DCA-200-79-R-0009. We are denying the protest because the reason for the late delivery is not one of the excusable reasons specified in the solicitation's late proposal clause (Defense Acquisition Regulation (DAR) § 7-2002.4 (1976 ed.)).

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Synergensis reports that it arranged for its subcontractor, American Telephone and Telegraph (ATT), Longlines Division, to pick up its proposal at the Ozark Airlines ticket counter at Chicago's O'Hare Airport for ultimate delivery to DECCO prior to the time set for receipt of initial proposals. The rendezvous failed when ATT's representative showed up at the St. Louis airport instead of the Chicago airport. Subsequently, DECCO refused to consider Synergensis' late proposal.

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The general rule followed by our Office is that an offeror has the responsibility for delivery of its offer to the proper place at the proper time, and late offers,

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with exceptions not applicable here, must be rejected if the cause of the late delivery fails to fall within the exact circumstances specified in the late proposal clause, DAR § 7-2002.4, supra. UBTL Division, University of Utah Research Institute, B-193655, April 4, 1979, 79-1 CPD 233. The clause provides three circumstances under which late proposals may be considered. Two of these circumstances concern late proposals delivered by registered, certified or regular mail prior to award while the third concerns situations where only one proposal is received. Because Synergenesis' proposal was not sent by any of the prescribed methods and was not the only proposal received, none of the circumstances which would permit consideration of its late proposal under the clause are applicable.

In view of our conclusion that Synergenesis' offer was properly rejected, it is not necessary to consider the other aspects of Synergenesis' protest.

Regarding Synergenesis' belief that ATT's failure to timely deliver Synergenesis' proposal raises antitrust implications, the appropriate agency for consideration of alleged antitrust activities is the Department of Justice and not the General Accounting Office. Mars Signal Light Company, B-193942, March 7, 1979, 79-1 CPD 164.

Finally, because we believe that Synergenesis' initial submission to our Office clearly reveals that the protest has no legal merit, this decision has been rendered without obtaining an agency report pursuant to our Bid Protest Procedures, 4 C.F.R. § 20.3(c) (1978). Inflated Products Company, Inc., B-190877, May 11, 1978, 78-1 CPD 362.

The protest is denied.



Deputy Comptroller General  
of the United States