

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

26200

FILE: B-212403.2**DATE:** September 12, 1983**MATTER OF:** Jets Services Inc.**DIGEST:**

1. Late proposal was properly rejected where none of the exceptions in the solicitation permitting consideration of late proposals are applicable.
2. Protest against rejection of late proposal on grounds that extension of time in amendment to RFP was unreasonably short and that provision in RFP limiting proof of mailing to certified or registered mail was unreasonable when size of proposal package made such mail service unavailable constitutes protest against alleged improprieties in the solicitation which is untimely since the protest was not received in our Office or in the contracting agency before the closing date for receipt of proposals.

Jets Services Inc. (Jets) protests the rejection of its offer under request for proposals (RFP) DAJA37-83-R-0473, issued by United States Army Contracting Agency, Europe, for operation and management of Government owned laundry and dry cleaning facilities in West Germany. Jets' proposal was rejected by the contracting officer for late receipt.

The protest shows on its face that it is without merit in part and untimely in part. Accordingly, the protest has been decided without obtaining an agency report as provided for in section 21.3(g) of our Bid Protest Procedures, 4 C.F.R. § 21.3, as amended January 17, 1983, 48 F.R. 1931 (1983).

By amendment 0004, issued July 20, 1983, the Army made changes in manning requirements and labor costs and extended the date for receipt of proposals to August 1, 1983. Jets first learned of the amendment on July 25, 1983, and received a copy by telex on July 27, 1983.

On July 26, 1983, 5 days prior to the date set for receipt of proposals, Jets attempted to post its proposal by "certified" or "registered" mail, as provided in the RFP.

006413

However, because of the number of copies of all material in the proposal required by the RFP to accompany the proposal, the proposal weighed in excess of 4 pounds and could not be sent by "certified" or "registered" mail in international mail.

Jets, therefore, sent the proposal by parcel post together with a certification by the Postal Service that the proposal had been submitted to the Postal Service on the date and in the manner indicated above. The proposal was received after the time and date specified in the RFP for the receipt of proposals and was rejected. In a telex of August 9, 1983, in which the contracting officer notified Jets that the proposal was received late and could not be accepted, the contracting officer also advised that the proposal package could have been separated into several packages to meet the postal requirements for "certified" or "registered" mail.

The rule is well settled that it is the offeror's responsibility to assure timely receipt of its proposal and that the offeror must bear the responsibility for late receipt unless the specific conditions of the solicitation for the consideration of late proposals are met. The solicitation permits the consideration of a late proposal only if it was sent by registered or certified mail 5 calendar days before the specified date, or late receipt was due solely to mishandling by the Government after receipt at the Government installation, or it is the only proposal received. See Defense Acquisition Regulation (DAR) § 7-2002.4 (Defense Acquisition Circular (DAC) 76-183, March 12, 1979); Hubbs-Sea World Research Institute, B-210579, March 1, 1983, 83-1 CPD 193.

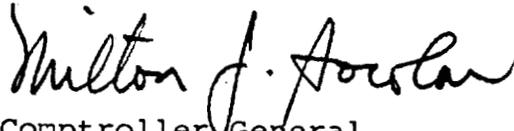
Since none of the exceptions apply, Jets' proposal was properly determined to be late and this aspect of the protest is denied.

Jets contends, however, that the rule should not apply because the time extension was inadequate resulting in an unreasonably short time within which to submit the proposal to the disadvantage of Jets.

This constitutes a protest based upon an alleged impropriety in the RFP which was apparent prior to closing date

for receipt of proposals. Section 21.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1983), requires that such a protest be received in our Office or by the contracting agency before the closing date for receipt of proposals. The protest was first received in our Office on August 11, 1983, and the issue concerning the alleged unreasonably short time extension was first presented in a supplement to the initial protest and was not received in our Office until August 17, 1983. This aspect of the protest is, therefore, untimely and dismissed.

Jets also contends that it is unfair to limit the method of proof of mailing to "certified" or "registered" mail when that form of mail was not available. This ground for the protest also constitutes a protest based on an alleged impropriety which was not timely filed and is dismissed.

for 
Comptroller General
of the United States