

LATENESS OF QUOTE IS DETERMINED BY AGENCY'S RECEIPT

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When dealing with quotations or offers for commercial items, the standard instructions for offerors make it clear that the submission must “reach the government...by the time specified in the solicitation.” The actual time the offeror sends something (particularly when sent electronically) is not relevant. In late December last year, an offeror found this out the hard way, when its quote was rejected as late. *Land Logistics*, B-419247, Dec. 31, 2020.

The Federal Emergency Management Agency (“FEMA”) issued a Request for Quotation (“RFQ”) for transportable temporary housing units and associated kits, using the simplified acquisition procedures in Federal Acquisition Regulation (“FAR”) part 13.5. The solicitation was for commercial items, FEMA incorporated by reference the clause at FAR 52.212-1 (Instructions to Offerors-Commercial Items).

FAR 52.212-1(f) states that:

Offerors are responsible for submitting offers...so as to reach the government office designated in the solicitation by the time specified in the solicitation...Any offer ...received at the government office ...after the exact time specified for receipt of offers is “late” and will not be considered except [under special exceptions not applicable here].”

The solicitation stated that the deadline for quotes was 11:59 PM on January 5, 2020. Land Logistics submitted its quotes electronically (as permitted by the solicitation) by 11:59 PM on January 5, 2020. However, the agency rejected the quote as late because the computer record showed that FEMA didn't receive the quotations until 12:01 am on January 6, 2020. The Government Accountability Office (“GAO”) denied Land Logistics' protest because FEMA *received* Land Logistics' quotation after the deadline, regardless of when it had been *transmitted*. So the two minute lateness of the quote potentially cost the offeror dearly.

Takeaway. You must submit proposals, offers or quotes on time—so they reach the agency by the deadline. The time you begin transmission of an electronic submission is not relevant—only the time the submission is received. Some offerors like to wait until the “last minute” to send in their offer. Land Logistics is a good reason why this is inadvisable. Had their quote been sent at 11:30 PM or even 11:50 PM, it is highly likely it would have been received on time. This is clearly an avoidable mistake on the part of an offeror.

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