

DECISION



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

46370

FILE: B-179589

DATE: January 23, 1974

MATTER OF: New Jersey Manufacturing Company, Incorporated

DIGEST: Where invitation for bids requires that bids signed by an agent are to be accompanied by evidence of his authority, unless such evidence has been previously furnished, we have held that while submission of proof of bidding authority before or at bid opening is encouraged to avoid challenges and problems of proof, we do not regard furnishing of such proof after bid opening as legally prohibited. 49 Comp. Gen. 527 (1970). Accordingly, bid signed by agent properly rejected where such proof not submitted at any time.

On May 17, 1973, invitation for bids (IFB) No. DAAF03-73-B-2068, was issued by the United States Army Weapons Command, Rock Island, Illinois, for the purpose of procuring 2,980 gas pistons to be used in various Army machine guns. Paragraph 2 (b) of the Solicitation Instructions and Conditions (Standard Form 33A, March 1969) provided in pertinent part:

"(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the solicitation and print or type his name on the Schedule and each Continuation Sheet thereof on which he makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to the issuing office." [emphasis added]

On June 18, 1973, the date specified, the nine bids timely received were opened. The low bid was submitted by the New Jersey

Manufacturing Company (New Jersey), and signed by Mr. Louis J. Santore as its attorney. However, the contracting officer was unable to determine whether Mr. Santore had been authorized to execute bids and contracts on behalf of New Jersey. As no evidence of Mr. Santore's authority to bind New Jersey was submitted with the bid, and as no other evidence could be located supporting Mr. Santore's assertion of agency, Mr. Santore was notified that the bid of New Jersey was rejected as nonresponsive. On July 26, 1973, award of contract No. DAA09-74-C-6038 was made to Dynamic American Company.

As the basis for this protest Mr. Santore contends that the Army's determination that he was not authorized to sign bids as New Jersey's attorney is incorrect as such authorization was in fact given to him.

The Army reports that a search of its files has failed to disclose any evidence of Mr. Santore's authority. The contracting officer states that while Mr. Santore contacted him by telephone prior to submitting this bid, he did not state for which firm he would be bidding, nor did he offer to furnish any proof of his authority to bid on behalf of New Jersey or any other company. Furthermore, the Army maintains that New Jersey's current Standard Form 129 (Bidder's Mailing List Application) on file with the procuring activity does not include Mr. Santore's name as an agent. The contracting officer also states that he contacted the Defense Contract Administration Services office, Springfield, New Jersey, to inquire if that office had any information which would establish Mr. Santore's authority. That office reported that it had no contracts with New Jersey executed by Mr. Santore and it did not have any information concerning Mr. Santore's relationship with New Jersey. Finally, the record indicates that no proof of Mr. Santore's agency had been furnished to the Army as of October 19, 1973, the date of the administrative report.

To be considered for award, a bid must comply in all material respects with the invitation for bids, and bids should be filled out, executed and submitted in accordance with the instructions which are contained in the IFB. Armed Services Procurement

B-179589

Regulation (ASPR) 2-301 (a), (c). However, with respect to the requirement here involved, the rule followed by our Office is that while submission of proof of bidding authority before or at the time of bid opening is encouraged to avoid challenges from other bidders and problems of proof before the contracting officer, we do not regard the furnishing of such proof after bid opening as legally prohibited. See 49 Comp. Gen. 527, 529-530 (1970); B-176493, October 12, 1972.

Since Mr. Santore failed to submit with the bid, or thereafter, proof of his bidding authority, and since such proof had not been previously furnished, the bid was properly rejected.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States