

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

FILE: B-186511

DATE: July 28, 1976

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MATTER OF: Cuthbert Construction Company

DIGEST:

Failure of bidder to acknowledge amendment in usual manner does not render bid nonresponsive. Acknowledgement in bid of addendum contained in amendment indicates that bidder was aware of amendment; therefore, bidder's failure to formally acknowledge amendment may be treated as minor informality.

Cuthbert Construction Company (Cuthbert), the second low bidder under invitation for bids (IFB) No. F04607-76-09046, issued by Norton Air Force Base, California (Air Force), for construction work protests the proposed award of a contract to the low bidder, M.R. Bracey Construction Company (Bracey), on the grounds that Bracey's bid failed to acknowledge receipt of Amendment M03 to the IFB.

The subject IFB, issued February 25, 1976, was revised by three amendments. Amendments M01 and M02, which had extended the bid opening date to April 5, 1976, and April 21, 1976, respectively, were followed by Amendment M03, issued April 8, 1976, which revised the IFB in substantial respects, including the incorporation into the specifications of "Addendum No 2".

On the back of Standard Form (SF) 21 of its bid Bracey entered "Addendum No 1 February 23, 1976, Addendum No 2 April 08, 1976" in lieu of the acknowledgement that it had received the three amendments. This entry was read aloud by the bid opening officer at opening of bids on April 21, 1976.

The bid opening officer states that after the close of bid opening on April 21, 1976, and during which time Bracey's bid was always within his possession, discovery was made of Amendments M01, M02, and M03 stapled to the bottom of both the original and duplicate of Bracey's bid. The bid opening officer also indicates that during his examination of Bracey's bid at bid opening, he apparently overlooked the attached amendments. He further states that there was no opportunity for anybody to place the amendments with Bracey's bid after bid opening.

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Cuthbert takes issue with the bid opening officer's statement that the subject amendments were attached to Bracey's bid at bid opening. The attorney for Cuthbert asserts that he was informed by the bid opening officer in the presence of the Air Force contracting officer that the amendments were found in the envelope after bid opening. In this connection, Cuthbert notes that Bracey, in its bid, typed the name appearing in Block 15 of Amendment M01 and M02 and printed the name appearing in Block 15 of Amendment M03. In addition, Cuthbert notes that the signature of Milton R. Bracey, Jr. in Block 14 of Amendment M03 appears to be different from that same individual's signature as found in Block 14 of Amendments M01 and M02. Cuthbert indicates that if its allegation is confirmed by the contracting officer, award to Bracey under such circumstances would undermine the integrity of the competitive bidding system.

However, it is not necessary to resolve this factual dispute because it is clear that the low bid is responsive whether or not the amendments were included in the bid envelope and attached to Bracey's bid at the bid opening. The low bidder did acknowledge "Addendum No 2 April 08, 1976". In fact, Amendment M03 is dated April 8, 1976, while Addendum No 2 is dated March 29, 1976. As the contracting officer reports, Amendment M03 is printed on two sides of a Standard Form 30, with the three pages of Addendum No 2 stapled to it. Under these circumstances we believe that the low bid clearly indicates the bidder's receipt of Amendment M03. Thus, the entry of "Addendum No 2" in lieu of "Amendment M03" in the Receipts of Amendments block of Bracey's bid may be treated as a minor informality.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States