

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

FILE: B-185194

DATE: June 15, 1976

MATTER OF: Bervia Plunk

DIGEST:

Unsigned bid for purchase of surplus Government property accompanied by bid deposit in form of cashier's check in the proper amount indicating bidder as remitter and bearing solicitation number may not be considered for award because Defense Disposal Manual Regulations require rejection of unsigned bid unless bidder's signature appears elsewhere in documents submitted with bid.

The single question presented in this protest is whether an unsigned bid accompanied by a bid deposit in the form of a cashier's check bearing the solicitation number may be accepted pursuant to the regulations governing Department of Defense sales of surplus property. We think it cannot and, accordingly, deny the protest.

The Defense Supply Agency, Defense Property Disposal Service, Columbus, Ohio, by Sale No. 27-6099, invited bids for the sale of surplus machine tools. The high bid of \$11,500 was submitted by Bervia Plunk (Plunk) for one item, a boring-drilling-milling machine. The other bid for that item, in the amount of \$6,260, was submitted by Bill Mims Machine Tools (Mims). As required by the bid deposit provisions of the solicitation, the Plunk bid was accompanied by a cashier's check in the amount of 20 percent of the bid. The check was inscribed with the sale number, indicated that Plunk was the remitter and bore the signature of a bank representative. The Mims bid was also accompanied by a proper bid deposit. Mims' bid was signed; Plunk's was not. Plunk urges that his protest of the proposed award to Mims be accepted as his signature and that award be made to him. No award has been made pending our decision on the protest.

The Department of Defense regulations applicable to solicitations for the disposal of property are set forth in the Defense Disposal Manual, which with regard to unsigned bids states:

"Unsigned Bids. In order for a written bid to be binding upon a bidder, it must be signed by the bidder or his authorized representative. The signature will appear in the space provided.

However, if the signature of the bidder or his authorized representative appears elsewhere, for example, on an acceptable check or in a letter of transmittal accompanying the bid indicating an intention to submit the bid, failure to sign in the space provided may be treated as a minor irregularity and be waived. Unsigned bids will not be considered, except to the extent stated in this subparagraph. * * *" DOD 4160.21-M, CH. XII, par. C 5 c.

Bids must be accompanied by some evidence of the bidder's intention to be bound by the bid, so that a valid contract will be effected by the Government's acceptance of the offer without resort to the bidder for confirmation of its intention. The usual expression of the intention to be bound by the bid is the signature of the bidder on the bid form in the space provided for that purpose. Bids that lack a signature are generally rejected for the following reasons:

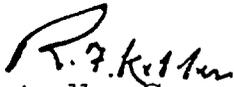
"If a bidder chooses to remain silent after the opening of bids he could disavow the bid because of the absence of a signature. This would place him in a position to make an election either to abide by his bid or to claim that the bid was submitted in error by a person without authority to enter into contracts on behalf of a bidder. This would give him more than one chance under the same invitation. [citation omitted] Moreover, when a bid is nonresponsive in a material respect, it cannot be corrected even though the nonresponsiveness may be due to mistake or oversight." B-160856, March 16, 1967.

In this connection, it is not inconceivable that a high bidder in circumstances such as here that found it had made an improvident bid substantially higher than that of other bidders might seek to avoid what it concluded was an undesirable bargain. Moreover, we believe it to be important that bidders that comply faithfully with bidding regulations should not in effect be penalized by the errors of less careful bidders which fail to follow correct procedures. Superior Oil Company v. Udall, 409 F.2d 1115 (D.C. Cir. 1969).

No authority has been cited and we know of none which contemplates the use of materials extraneous to the sealed bid to remedy deficiencies in a sealed bid submitted under the regulations that are controlling here. Mr. Plunk did not sign the bid in the space provided

B-185194

nor does his signature appear elsewhere on the bid documents. Therefore, in view of the specific terms of the applicable regulations, the protest is denied.


Acting Comptroller General
of the United States