

7034

D. Epstein, Jr.

DECISION



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

FILE: B-191754

DATE: July 18, 1978

MATTER OF: National Investigation Bureau, Inc.

DIGEST:

Bid submission which included rubber stamped signature for person authorized to sign but no contemporaneous authorization for execution of documents by rubber stamped signature or other evidence showing intent to submit bid was properly rejected as nonresponsive and was not subject to waiver as minor informality pursuant to Federal Procurement Regulations § 1-2.405(c)(2) (1964 ed.).

National Investigation Bureau, Inc. (NIB) protests the rejection of its bid as nonresponsive by the Great Lakes Region of the Federal Aviation Administration under invitation for bids GLAA-8-6. NIB was the total low bidder on the solicitation, but the signature blocks on page 1 and page 9 of NIB's bid were not manually signed but were inscribed with a rubber stamped signature.

Federal Procurement Regulation (FPR) § 1-2.405(c)(2) (1964 ed.) states that failure of bidder to sign its bid is a minor informality only if

"...the firm submitting a bid has formally adopted or authorized, before the date set for opening of bids, the execution of documents by typewritten, printed, or stamped signature and submits evidence of such authorization and the bid carries such a signature." Our emphasis.

Since the regulation does not on its face specify when the evidence of authorization of a typewritten, printed, or stamped signature has to be submitted, NIB offers to submit its corporate books to establish that it has formally authorized the use of a rubber stamp for signature of bids, and NIB therefore contends that the absence of a manual signature should be treated as a minor informality or irregularity not calling for the rejection of its bid.

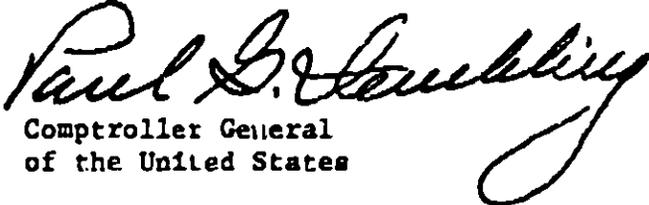
The contracting officer found no correspondence submitted with NIB's bid which indicated NIB's intention to be bound by the unsigned bid, such as a bid bond or letter signed by NIB referring to and clearly identifying the bid itself. Nor was any documentation submitted with the bid showing NIB's authorization of a rubber stamp for signature of bids. The contracting officer and agency interpret FPR § 1-2.405(c)(2) to require the contemporaneous submission with the bid of any evidence substantiating the bidder's formal adoption or authorization of a policy of executing bids by typewritten, printed, or stamped signature. The agency states that, "To do otherwise would allow the bidder the proverbial 'two bites at the apple,' since he could choose, after bid opening, to submit or withhold the evidence at his option, dependent on whether he wanted the Government to accept or reject his bid."

The agency is correct that the similarly worded § 2-405(iii)(A) of the Armed Services Procurement Regulation (1976 ed.) has been interpreted to require bids bearing a rubber stamped signature to be accompanied by some documentary evidence showing a clear intent to submit a bid. In A-160856, March 16, 1967, a bid was executed by a rubber stamped signature in the space designated for the signature of the person authorized to sign for the bidder. There was no manual signature, and the bid was not accompanied by a bond or any supporting evidence showing that the bidder had adopted or authorized the execution of documents by rubber stamped signature. After the agency had rejected the bid as being nonresponsive, the bidder submitted a notarized statement that a rubber stamped signature was authorized by the company, but the proffered statement was rejected because it was not submitted contemporaneously with the bid. That decision stated:

"The reasoning behind this rule is that when a bid lacks a proper signature, and there is no other clear indication in the bid submission that the purported bidder intended to submit the bid, the contracting officer has no assurance that the bid was submitted by someone with authority to bind the bidder. For that reason, acceptance of such a bid would not have automatically obligated the named bidder to perform the contract advertised. The test in cases where bids are not manually signed is whether the bid as submitted will result in a binding contract upon acceptance of the bid by the Government without confirmation of the bidder's intention."

In other commercial contexts, a rubber stamped signature is presumed to show that there was a present intention of the signer to adequately execute the document to which the rubber stamped signature is affixed. McGrady v. Munsey Trust Co., 32 A.2d 106 (Mun. Ct. App. D.C. 1943); Matter of Save-On-Carpets of Arizona, Inc., 545 F.2d 1239 (9th Cir. 1976); A&G Constr. Co. Inc. v. Reid Bros. Logging Co., Inc., 547 P.2d 1207 (Alas. 1976); Benedict v. Lebowitz, 346 F.2d 120 (2nd Cir. 1965). However, in order to avoid the problems associated with challenges to that presumption after bid opening, the Government in its interpretation of FPR § 1-2.405(c)(2) has elected to require contemporaneous evidence to support a bidder's rubber stamped signature. Cf. Matter of Sarah Stencil Machine Company, B-188131, March 23, 1977, 77-1 CFR 207.

In view of the foregoing, the protest is denied.


For The Comptroller General
of the United States