

**DECISION**



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

**FILE:** B-218064                      **DATE:** February 1, 1985  
**MATTER OF:** Wilton Corporation

**DIGEST:**

An agency may waive a bidder's failure to sign its bid as a minor informality, thus obviating rejection of the bid as non-responsive, when the bid is accompanied by other documentation signed by the bidder which clearly evinces the bidder's intent to be bound, such as an acknowledged amendment.

Wilton Corporation protests the acceptance of the unsigned bid of Brink and Cotton Manufacturing Company under invitation for bids (IFB) No. FEN-SV-A5204-A-1-7-85, issued by the General Services Administration (GSA). GSA waived the failure to sign the bid as a minor informality because the bid was accompanied by Amendment No. 1 to the IFB, which Brink and Cotton had acknowledged by signing and returning. Wilton asserts that this waiver was improper. We dismiss the protest.

In general, a bid which is not signed must be rejected as nonresponsive because, without an appropriate signature, the bidder would not be bound upon the government's acceptance of the bid. See, e.g., Inge Ellefson, B-212785, Sept. 2, 1983, 83-2 CPD ¶ 303. However, we have recognized an exception to this general rule that allows for waiver of the failure to sign the bid as a minor informality when the bid is accompanied by other documentation signed by the bidder (such as a properly executed bid bond) which clearly evinces the bidder's intent to be bound by the bid submitted. Mountain Cascade, Inc., B-211460, July 14, 1983, 83-2 CPD ¶ 93; cf. Cable Consultants, Inc., B-215138, July 30, 1984, 84-2 CPD ¶ 127 (in which an accompanying irrevocable letter of credit was held not to negate a bidder's failure to sign its bid because it did not require the bidder's signature as a party to the instrument).

In addition, the Federal Acquisition Regulation (FAR), § 14.405(c)(1), 48 Fed. Reg. 42,102, 42,180 (1983) (to be codified at 48 C.F.R. § 14.405(c)(1)), provides that a bidder's failure to sign its bid may be waived as a minor informality when the bid

"is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid (such as the submission of a bid guarantee or a letter signed by the bidder, with the bid, referring to and clearly identifying the bid itself) . . ."

Here, GSA waived Brink and Cotton's failure to sign its bid as a minor informality because the bid was accompanied by Amendment No. 1, which the firm had acknowledged by signing and returning. We believe that GSA's action was proper.

Wilton urges that the amendment was not legally sufficient to indicate Brink and Cotton's affirmative intent to be bound by its bid, because the amendment in fact had been issued prior to the IFB itself, and because, allegedly, the amendment was immaterial and GSA did not require its acknowledgment. We find no merit to the firm's position. The amendment bore the bidder's signature, which is the prime consideration for determining the bidder's intent to be bound. See Cable Consultants, Inc., supra. Moreover, by its very nature, the amendment referred to and identified the bid, thus fully comporting with the requirements of FAR, § 14.405(c)(1), supra, with respect to the legal sufficiency of accompanying documentation.

Hence, it is our view that an amendment bearing the bidder's signature which accompanies an unsigned bid is a clear indication of the bidder's intent to be bound by its bid, and, accordingly, permits acceptance of the bid.

Under section 21.3(f) of our new Bid Protest Regulations effective January 15, 1985, we will summarily dismiss a protest without requiring the submission of an agency report when on its face the protest does not state

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a valid basis for protest. See 49 Fed. Reg. 49,417, 49,421 (1984) (to be codified at 4 C.F.R. § 21.3(f)). We find no valid basis for protest here, and, accordingly, we have not requested a report from GSA.

The protest is dismissed.

  
for the Comptroller General  
of the United States