



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: FMS Corporation
File: B-228201
Date: September 30, 1987

DIGEST

Evidence of an agent's authority to sign bid may be furnished after bid opening.

DECISION

FMS Corporation protests the possible award of a contract to Earl Industries under invitation for bids (IFB) No. DAAE07-87-B-A131 issued by the U.S. Army Tank-Automotive Command. FMS contends that Earl Industries' bid should be rejected as nonresponsive because it was not accompanied by evidence that the person who signed the bid had authority as Earl's agent. We dismiss the protest.

The IFB contained the clause set forth in the Federal Acquisition Regulation at 48 C.F.R. § 52.214.12 (1986), which requires a bid signed by an agent to include evidence of that agent's authority, unless the evidence was previously furnished to the issuing office. FMS states that Earl's bid was signed by "Jerold L. Miller, Senior Engineer," and that it was not accompanied by evidence that Jerold L. Miller was Earl's authorized agent. FMS does not believe that evidence of authority was previously furnished.

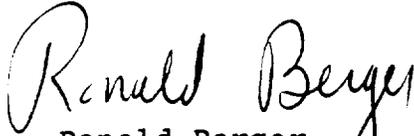
Notwithstanding the foregoing solicitation provision, we have repeatedly held that a bidder may furnish proof of an individual's authority to sign bids subsequent to bid opening and that the failure to furnish such information at bid opening will not render a bid nonresponsive. Marine Power and Equipment Company, Inc., B-208393, Dec. 7, 1982, 82-2 CPD ¶ 514; Cambridge Marine Industries, Inc., 61 Comp. Gen. 187 (1981), 81-2 CPD ¶ 517. Our rationale for this conclusion was stated in Cambridge, supra as follows:

"If a principal should establish that a bid was submitted on its behalf by an individual not authorized to enter into contracts for him, the

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Government would have a possible cause of action against such unauthorized individual. . . . Therefore, it can be expected that any false disavowals would not go unchallenged by the agent. In any case, the Government has ample means to protect itself against fraudulent practices by bidders."

We see no reason to alter our position now. Accordingly, the protest is dismissed.


Ronald Berger
Deputy Associate
General Counsel