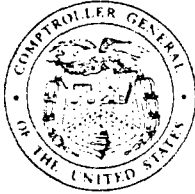


DECISION

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

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FILE: B-185792

DATE: July 9, 1976

MATTER OF: George E. Jensen, Contractor, Inc.
Shelby-Skipwith, Inc.**DIGEST:**

1. Bidder's failure to list a subcontractor for a category estimated to cost less than 3-½ percent of the total estimated contract price is a minor bid deficiency which may be waived.
2. Failure by signer of low bid to initial change of total bid price, where such change raised no question regarding intended bid, was properly waived as a minor informality.

George E. Jensen, Contractor, Inc. (Jensen) and Shelby-Skipwith, Inc. (Shelby) have protested the March 8, 1976, award of a contract to Baeten Construction Company (Baeten). The contract was issued pursuant to an invitation to bid on General Services Administration, Public Building Service Project I-MT-74-506, involving miscellaneous improvements to the Federal Building, U.S. Post Office and Court House in Missoula, Montana. Jensen and Shelby contend that Baeten's bid was nonresponsive to the solicitation's requirements because (1) Baeten failed to comply with the listing of subcontractor requirements, and (2) the signer of Baeten's bid did not initial a correction on the bid form. For the reasons stated below, the protests are denied.

The invitation required bidders to list either themselves or their proposed subcontractors for certain enumerated categories of work. In the category "Finish Hardware", which includes supplying and installing finish hardware, Baeten listed Anderson Steel Supply, Inc., thereby indicating that Baeten would subcontract with Anderson to perform all of the work in that category. Jensen claims that Anderson is merely a finish hardware (doorknobs, locks, hinges, etc.) supplier; therefore, Baeten will also have to subcontract for the installation portion of the requirement. Thus, argues Jensen, Baeten has failed to list an intended subcontractor.

GSA states Baeten's subcontractor does intend to install the finish hardware, either itself or by sub-subcontract. Although the protesters argue to the contrary, GSA concludes that the listing requirement could be met. In either event, GSA has pointed out, and neither protester has denied, that the Government's estimate for the "Finish Hardware" category comprises only 3 percent of the Government's estimated cost of the entire contract. In B-157279, August 17, 1965, we held that where a category of less than 3-½ percent was included in an IFB listing requirement, a bidder's failure to list a subcontractor for that category was a minor bid deficiency which could be waived. As a result of our decision, GSA amended its regulations to provide that, where subcontractor listing is required, general construction categories (i.e., those other than mechanical, electrical, and elevator and/or escalator divisions of the project) estimated to cost less than 3-½ percent of the entire contract shall not be included. GSPR 5B-2.202.70 (a), 40 Fed. Reg. 47109, (1975); see, 47 Comp. Gen. 644, 653 (1968). Therefore, even if Baeten failed to list a subcontractor for the "Finish Hardware" category, we would regard such a failure as minor. Wicham Contracting Company, B-179947, April 5, 1974, 74-1 CPD 173.

The protester's other contention is that Baeten violated paragraph 5(a) of Standard Form 22 (Instructions to Bidders) which provides as follows:

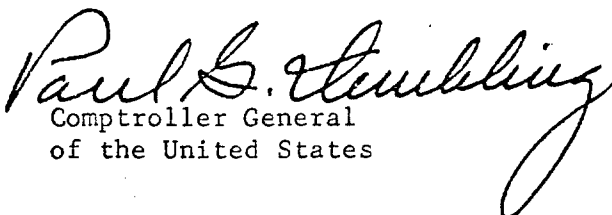
"5. Preparation of Bids. (a) Bids shall be submitted on the forms furnished, or copies thereof, and must be manually signed. If erasures or other changes appear on the forms, each erasure or change must be initialed by the person signing the bid. * * *"

Baeten's lump sum bid of one million, nine hundred thirteen thousand, six hundred and thirty dollars (\$1,913,630.00) was lined out and the bid one million, eight hundred ninety-five thousand dollars (\$1,895,000.00) was entered without the accompanying initials of the bid's signer. The change was initialed, however, by Peter P. Prebble, who reportedly had actual authority to make changes in Baeten's bid.

The protesters have not argued, however, that Baeten's intended bid was not clear. In such circumstances, we have held that the requirement for initialling changes is a matter of form which may be waived. 49 Comp. Gen. 541, 542-3 (1970). Therefore, we see no reason for questioning the propriety of the award to Baeten.

B-185792

Accordingly, the protests are denied.

For 
Comptroller General
of the United States