



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Ace-Federal Reporters, Inc.

File: B-222584.2

Date: October 16, 1986

## DIGEST

Prior decision holding that bid which included bid bond marked "confidential" was responsive is affirmed because the bid bond does not directly impact the nature of the product offered or its price, quantity or delivery.

## DECISION

Ace-Federal Reporters, Inc. requests reconsideration of our decision, Ace-Federal Reporters, Inc., B-222584, June 30, 1986, 86-2 CPD ¶ 18, where we denied its protest against award to Executive Court Reporters of a contract for reporting and transcription services under Department of Labor invitation for bids No. D/L 86-6. We held that the placement by Executive of a confidential stamp on its bid bond was inadvertent and could be waived as a minor irregularity. Ace-Federal argues that we departed from our well-established precedent that such a restriction will render a bid nonresponsive and cannot be waived as a minor informality. We affirm our decision.

While the protester argues that our decision is a departure from previous cases, see, e.g., Sperry-Univac, B-200378, Jan. 22, 1981, 81-1 CPD ¶ 38, we could find no case, nor did the protester cite one, that involved a bid bond containing a restrictive legend. Our prior cases and the regulations concern the restriction of descriptive literature relating to the nature of the product offered or bid information regarding quantity, price or delivery terms. See Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.404-4 (1985); Computer Network Corp., 55 Comp. Gen. 445 (1975), 75-2 CPD ¶ 297. A bid bond does not directly impact any of these essential elements of the bid. It is a promise by a party other than the bidder to reimburse the government in the event the bidder does not accept the award. See Nova Group, Inc., B-220626, Jan. 23, 1986, 86-1 CPD ¶ 80. We can see no advantage to be gained by a bidder if the bond is restricted.

Under the circumstances, we determined that the restriction must have been the result of an error and could have no effect on the integrity of the competitive sealed bidding system. Hence, we concluded that the restriction was a minor informality which the agency could waive under FAR, 48 C.F.R. § 14-405. While the protester has cited several decisions where we have concluded that bids containing restrictive legends must be rejected as nonresponsive, we do not think that rule reasonably applies to the bond in this case.

The decision is affirmed.

*for* *Harry J. Van Cleave*  
Comptroller General  
of the United States