



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Power Master Electric Co.
File: B-223995
Date: November 26, 1986

DIGEST

1. Bid which included typewritten name and title of person authorized to sign, but no signature, was properly rejected as nonresponsive and omission was not subject to waiver as minor informality.
2. Use of an outdated Standard Form 33 bid form was a procedural deficiency which did not eliminate the requirement for a signature on the bid.
3. Failure of invitation for bid to require a bid bond or contain an explicit warning that failure to sign one's bid would result in rejection of bid as nonresponsive does not provide grounds to waive, as a minor informality, missing signature in protester's bid.

DECISION

Power Master Electric Company protests the rejection of its unsigned, low bid submitted in response to invitation for bids (IFB) No. N62467-85-B-5553 issued by the Department of Navy for grounds maintenance at the Naval Air Station, Dallas, Texas.

We deny the protest.

Power Master's bid was submitted on a Standard Form 33 bid form, provided by the Navy, on which the bidder typed in his name, address and title but left blank the box provided for the bidder's signature. As a result, the Navy rejected the bid as nonresponsive.

Generally, a bid that 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. Wilton Corp., 64 Comp. Gen. 233 (1985), 85-1 C.P.D. ¶ 128. Failure to sign a bid may be waived as a minor informality, as provided in Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.405(c) (1985), only if:

" . . . (1) The unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid . . .; or (2) The firm submitting a bid has formally adopted or authorized, before the date set for opening of bids, the execution of documents by typewritten . . . signature and submits evidence of such authorization and the bid carries such a signature."

Power Master does not allege, nor does the record indicate, that its bid was accompanied by other material indicating an intention to be bound or by evidence that the typewritten signature was authorized. Rather, Power Master argues that its failure to sign its bid should be waived as a minor informality because: (1) the Navy used an outdated bid form, making the need for a signature academic; (2) the IFB did not contain an explicit provision stating that failure to sign one's bid would be grounds for rejection; and (3) the IFB did not require a bid bond, thus signifying a waiver of the signature requirement. As discussed below, these arguments do not provide grounds to waive Power Master's failure to sign its bid. Power Master's bid was, therefore, properly rejected as nonresponsive.

Power Master's first argument is that its failure to sign its bid is academic because the Standard Form 33 contained in the solicitation was an outdated (10-83) revision, not the current (4-85) one. Since the current revision of the form states in one corner "Previous Edition Not Usable," the protester argues that "it does not matter if any of the blanks were completed" on a form which was "not usable." This argument is without merit.

The previous and current revisions of Standard Form 33 are virtually identical except for certain changes needed to make the form consistent with the requirements of the Competition in Contracting Act of 1984. Block 17, "Signature," is identical in each. We agree with the Navy that the use of an outdated form was a procedural deficiency that did not affect the requirement for a signature. Regardless of the form used, without an appropriate signature there can be no valid bid.

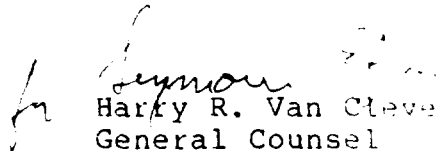
We also find Power Master's second argument without merit. Although the IFB in question did not contain an explicit provision stating that failure to sign one's bid would result in rejection of the bid as nonresponsive, the solicitation

did incorporate by reference Federal Acquisition Regulation (FAR), 48 C.F.R. § 52.214-12 (1985), which sets forth the requirements for preparation of bids, including the signature requirement. The proper preparation of its bid is a responsibility which rests with the bidder so as to ensure that the contracting officer will accept the bid in full confidence that an enforceable contract will result. See Cable Consultants, Inc., 63 Comp. Gen. 521 (1984), 84-2 C.P.D. ¶ 127. A bidder's intention to be bound by the solicitation requirements and provide the requested items must be determined from the bid itself at the time of bid opening. See Franklin Instruments Co., Inc., B-204311, Feb. 8, 1982, 82-1 C.P.D. ¶ 105. Since the IFB did set forth the requirements for preparation of bids, it was Power Master's responsibility to incorporate those requirements into its bid so that its unequivocal intention to be bound would be evident upon bid opening. Thus, Power Master's failure to sign its bid may not be waived simply because the IFB did not explicitly warn that such failure to sign would result in rejection of the bid as nonresponsive.

Similarly, we reject Power Master's final argument, that lack of a bid bond signified waiver of the signature requirement. The mere submission of a bid does not give rise automatically to a legal inference that the bidder intended to be bound by the bid. Rather, that intent must be indicated by a signature or something equivalent. See Jonard Industries Corp., B-192979, Jan. 30, 1979, 79-1 C.P.D. ¶ 65.

This is true whether or not a bid bond is required to be furnished along with the bid. It is the signature that normally indicates if the bid is submitted by someone authorized to do so, and it is upon the signature that a contracting officer must rely when determining if a binding bid has in fact been submitted. This requirement is necessary to prevent a bidder, after bid opening, from disavowing or attempting to disavow its bid to the detriment of the sealed bidding system. See Jonard Industries Corp., B-192979, supra, at 2, 79-1 C.P.D. ¶ 65 at 2. A bid bond may not always be required to accompany a bid, but is used in those instances where the government finds it necessary to further protect its financial interests in the event the bidder fails to execute the required contract documents and deliver the required performance and payment bonds. See Inland Service Corp., B-221202, Apr. 20, 1983, 83-1 C.P.D. ¶ 425. The absence of a bid bond requirement in a solicitation does not, therefore, obviate the need for the bidder to sign its bid.

The protest is denied.


Harry R. Van Cleave
General Counsel