



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Loop to Loop Messenger Service

File: B-241068

Date: December 21, 1990

Laurence Berube for the protester.
James Evans for Veterans Messenger Service Inc., an interested party.
Steven A. Bartholow, Esq., Railroad Retirement Board, for the agency.
Katherine I. Riback, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

A bidder's failure to sign its bid may not be waived as a minor informality when the accompanying signed solicitation amendments fail to clearly identify the bidder and demonstrate the bidder's intent to be bound.

DECISION

Loop to Loop Messenger Service (LTL) protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. 90-A-24, issued by the Railroad Retirement Board for messenger services to be provided in Chicago. The Railroad Retirement Board rejected the bid because it was not signed and the accompanying signed solicitation amendments failed to clearly identify LTL as the bidder. The protester contends that its intention to be bound by its offer should have been sufficiently apparent because its bid included two solicitation amendments signed by the president of LTL.

We deny the protest.

The record shows that after this procurement was synopsized in the Commerce Business Daily, the contracting agency received a written request for a copy of the solicitation from a Mr. Carpenter of CPS, Inc. Mr. Carpenter appears on the bidder's mailing list; he was sent a blank copy of the solicitation as well as both amendments to the IFB. Each of the amendments was addressed to Mr. Carpenter at CPS. No request for a copy of the solicitation was received from the protester.

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The protester's bid, the lowest of the five bids received, included a Standard Form (SF) 33, "Solicitation, Offer and Award" which was left blank: no bidder's name appeared on it and it was unsigned. Stapled to the front of the bid on top of the SF 33 were the two solicitation amendments (SF 30). Each was signed by Laurence Berube as "President," but, as indicated above, had the name "Howard Carpenter" and the title and address of "CPS Inc." in the block reserved for the name and address of the contractor. After bid opening, the contracting agency learned that Mr. Carpenter, whose name appears in the amendments' address block, was the president of Contract Procurement Services, Inc. and that Mr. Berube, who signed both amendments, was president of LTL.^{1/} The contracting officer refused to waive LTL's failure to sign its bid as a minor informality, because the accompanying signed amendments created confusion concerning the identity of the bidder. This protest followed.

The protester challenges the agency's rejection of its bid, contending that its actions sufficiently demonstrated its intent to be bound. LTL also contends that it is immaterial that another firm is identified as the contractor on both amendments, because Laurence Berube signed both amendments and the agency was able to deduce after bid opening that Mr. Berube is the president of LTL.

As a general rule, an unsigned bid must be rejected as nonresponsive because without an appropriate signature, the bidder would not be bound should the government accept the bid. Jennings Int'l Corp., 68 Comp. Gen. 79 (1988), 88-2 CPD ¶ 472. There is an exception to this general rule allowing 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 which clearly evidences the bidder's intent to be bound by the bid as submitted, by referring to and identifying the bid itself. Federal Acquisition Regulation § 14.405(c)(1) (1990), (FAC 14-15); Wilton Corp., 64 Comp. Gen. 233 (1985), 85-1 CPD ¶ 128. The agency correctly rejected the bid as nonresponsive because the unsigned SF 33 bid form and the amendments signed by an officer of a company other than that identified on the SF 30 fail to clearly identify the bidder, and do not allow the contracting officer to determine what firm would be unequivocally obligated to perform the contract if the offer were accepted. Had the signed amendments correctly identified LTL as the bidder, its


1/ There was no mention of Loop to Loop Messenger Service anywhere on the bid or amendments. According to documents submitted by the protester, LTL hired CPS Inc. as a marketing agent to "generate business."

bid would have fallen within this exception and could have been accepted. Id. The signed amendments, however, identify another firm--LTL's consultant--as the contractor and never mention LTL, and therefore fail to sufficiently identify LTL as the bidder and demonstrate LTL's intent to be bound by its bid. The amendments are at best ambiguous as to the identity of the bidder. Moreover, a contracting officer is not obligated to interpret an ambiguous bid, by sequential logical deductions and inferences, to make a bid responsive. Sigma General Corp., 69 Comp. Gen. 133 (1989), 89-2 CPD ¶ 553.

LTL stresses that this is the first time it has replied to a government solicitation. This fact does not relieve it of the responsibility to submit a signed bid or a bid accompanied by other dispositive evidence that demonstrates its intent to be bound. It is the bidder's responsibility to prepare its bid properly so as to ensure that the contracting officer is able to accept the bid in full confidence that an enforceable contract will result, and the signing of the bid document itself is one element of that responsibility. Canaveral Ship Repair, Inc., B-230630, May 20, 1988, 88-1 CPD ¶ 486.

Finally, LTL may not explain its intentions and actions after bid opening in an attempt to clear the confusion surrounding its bid. Responsiveness is determined from the face of the bid at bid opening, therefore, post-bid opening explanations cannot be used to cure a nonresponsive bid. Syllor, Inc./Ease, B-234803, July 12, 1989, 89-2 CPD ¶ 41.

The protest is denied.


for James F. Hinchman
General Counsel