



Comptroller General  
of the United States

530184

Washington, D.C. 20548

## Decision

**Matter of:** Kovilic Construction Company, Inc.

**File:** B-256187

**Date:** April 15, 1994

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### DECISION

Kovilic Construction Company, Inc., the third low bidder, protests the award of a contract to B. Stromberg Construction Company, Inc. under invitation for bids (IFB) No. DTFA14-94-B-33491, issued by the Federal Aviation Administration for the replacement of cooling towers at an air traffic facility. Kovilic argues that its bid and that of the second low bidder should have been rejected as nonresponsive because the powers of attorney accompanying their bid bonds were defective. We dismiss the protest.

The IFB required bidders to submit with their bids a bid bond in the amount of 20 percent of the bid price. Stromberg submitted, along with its bid bond, a power of attorney which contained facsimile or photocopied signatures authorizing the attorney-in-fact to sign and bind the surety on the bid bond. The power of attorney stated as follows:

"The signature of the [surety's] officers may be engraved, printed or lithographed. The signature of each of the foregoing officers and the seal of the Company may be affixed by facsimile to any Power of Attorney [and] any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company."

The agency determined that Stromberg's bid bond and power of attorney were valid and binding; the agency then awarded the contract to Stromberg. This protest followed.

The protester argues that the two low bidders' bid bonds were of questionable enforceability because the corporate sureties' powers of attorney, authorizing the named attorneys-in-fact to execute the bid bonds on behalf of the sureties, thus binding the sureties to the terms of the bid bonds, were photocopied, not originally signed, documents. Specifically, the protester argues that the signatures of

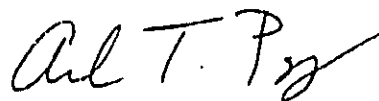
the surety officials authorized to appoint attorneys-in-fact were photocopied from a "master" form onto the powers of attorney prior to the attorneys-in-fact appointments and that the notary public signatures were also photocopies of earlier attestations.

Our review of the record shows that the protester itself submitted a power of attorney which stated as follows:

"[T]he signature of [the surety's] officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company."

Despite the protester's statements to the contrary, we find that its power of attorney also contained photocopied signatures which may have been affixed from a "master" form prior to the appointment of its attorney-in-fact. Since the protester's power of attorney submitted with its bid bond suffers from the same alleged defect as the power of attorney of the awardee, the protester is not an interested party to pursue this matter because it would not be in line for award if our Office determined that such powers of attorney were in some way defective. See 4 C.F.R. § 21.0 (1993). In any event, we have recently approved the acceptance by an agency of such photocopied powers of attorney. See Services Alliance Sys., Inc., B-255361, Feb. 22, 1994, 94-1 CPD ¶ \_\_\_\_.

We dismiss the protest.



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