

DECISION



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

FILE: B-186515

DATE: August 3, 1976

MATTER OF: Monongahela & Ohio Dredging Company

61272

98752

DIGEST:

Bid bond was submitted with signed Bid Form which included statement from bidder that bond in amount of \$16,000 was enclosed. Bond contained surety's signature and seal, IFB number, penal sum required, and business address of bidder. Identification on bond of principal as "R.O. Contracting," where bidder was "R.O. Contracting Company," and failure of bidder to sign bond may be waived as minor informalities, since on basis of above factors surety's liability under solicitation is clear and enforceable by Government.

Invitation for bids (IFB) number DACW27-76-B-0064 was issued on March 5, 1976, by the Louisville District of the United States Army Corps of Engineers for the lease of a dredge and attendant plant with operating personnel to be used in connection with the dredging of the Ohio and Licking Rivers. R.O. Contracting Company was the low bidder at \$62,500. Monongahela & Ohio Dredging Company, the only other bidder, alleges that the bid bond submitted by R.O. Contracting Company was deficient, and protests the proposed award of the contract to that firm.

The IFB contained a requirement that bids must be accompanied by:

"* * * a Bid Bond (Standard Form 24) with good and sufficient surety or sureties acceptable to the Government, or other security as provided * * * in the form of twenty percent (20%) of the bid price or \$3,000,000 whichever is less * * *."

Paragraph 4 of the Instructions to Bidders cautioned that failure to furnish a bid guarantee in the proper form and amount "* * *" may be cause for rejection of the bid."

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The president of R.O. Contracting Company executed the Bid Form on behalf of the firm, and completed that part of the Bid Form stating "ENCLOSED IS BID GUARANTEE, CONSISTING OF BID BOND IN THE AMOUNT OF \$16,000." (Emphasis indicates bidder's inserts.) The bidder's business address as entered on the Bid Form directly below that statement was Box 47, Mayo, Florida 32066.

Paragraph 2 of the reverse side of Standard Form (SF) 24 instructed bidders in part as follows:

"The full legal name and business address of the Principal shall be inserted in the space designated 'Principal' on the face of this form. The bond shall be signed by an authorized person. * * *"

Inserted by R.O. Contracting Company in the space designated "Principal" was:

"R.O. Contracting
Box 47
Mayo, Florida 32066"

Typed in the space provided for the signature of "an authorized person" was "R.O. Contracting." In addition, although the bond also provided spaces to indicate the principal's type of organization (individual, joint venture, partnership, or corporation), and State of incorporation, no entries were made therein.

Monongahela & Ohio Dredging Company contends that the bid bond is not valid because "R.O. Contracting" is not a sufficient legal identification of the bidder R.O. Contracting Company as the principal, and because the bond was not signed by the principal's authorized representative.

We have consistently held that bid bond requirements must be considered a material part of an IFB and a contracting officer cannot waive the failure to comply with those requirements. See General Ship and Engine Works, Inc., 55 Comp. Gen. 422 (1975), 75-2 CPD 269. However, we have stated that "* * * we do not regard the instructions on the back * * *" of SF 24 as the type of material bid bond requirements with which bidders must comply

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in order to be responsive. B-152589, October 18, 1963. Rather, since the purpose of the bond is to secure liability of a surety to the Government in accordance with the terms of the bond, 52 Comp. Gen. 223 (1972), the question presented in cases where bid bond requirements are not complied with is:

"* * * whether the Government obtains the same protection in all material respects under the bond actually submitted as it would have under a bond complying completely with the instructions on Standard Form 24. * * *" B-152589, supra.

If the Government will in fact receive such protection, this Office will not apply an overly technical interpretation of the applicable regulations to defeat a bid bond. 52 Comp. Gen. supra.

The bid bond at issue was submitted with a signed Bid Form which included a statement from the bidder that a bond in the amount of \$16,000 was enclosed. The bond contained the signature and seal of the surety, the IFB number, and the penal sum required and referenced. Although the principal named on the bid bond is merely "R.O. Contracting," and there is no indication of its type of organization, the business address entered on the bid bond is the same as that entered for the bidder on the Bid Form in the section in which the bond is referenced. Considering that factor in conjunction with those listed above, we believe that the identification on the bond is sufficient to insure the surety's liability under a contract with R.O. Contracting Company. Therefore, the deficiency in identifying the principal on the bond may be considered a minor technicality which can be waived. See 44 Comp. Gen. 495 (1965). In addition, concerning the failure of the bidder to sign the bid bond, we have held in circumstances where the above elements are present that such failure may also be waived as a minor informality. B-173475, October 22, 1971; B-164453, July 16, 1968.

Since the Government would be able to enforce the surety's obligation under the bond, the subject bid can be considered for award, and the protest is denied.


Deputy Comptroller General
of the United States