

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

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FILE: B-186261

DATE: June 11, 1976

MATTER OF: Sealtite Corporation

98843

DIGEST:

Rejection of bid as nonresponsive for its failure to furnish sufficient bid guaranty is required because bid guarantee requirement is material part of IFB and protester's purported certified check without authorized bank official's signature thereon is unacceptable bid guarantee since no commitment exists by bank to cover value of check.

Sealtite Corporation protests the contracting officer's rejection of its bid as nonresponsive for failure to provide with its bid a sufficient bid guarantee.

Invitation for bids (IFB) F04684-76-09024, issued on February 4, 1976, called for installing insulation in the attic areas of miscellaneous base facilities located at Vandenberg Air Force Base, California. Standard Form 20 required bidders to submit with their bids a bid bond or other security as provided in paragraph 4 of Standard Form (SF) 22. SF 22, "Instructions to Bidders," states that "A bid guarantee shall be in the form of a firm commitment, such as a bid bond, postal money order, certified check, cashier's check, irrevocable letter of credit or, in accordance with Treasury Department regulations, certain bonds or notes of the United States * * *." Sealtite submitted a personal company check which was stamped "certified" but it did not have the signature of a bank official verifying the certification. The contracting officer reports that the bid opening official contacted the Waukesha State Bank where the check was drawn and was advised by a bookkeeper at the bank that Sealtite's account was not sufficient to cover the check.

Sealtite contends that it submitted a certified check as a permitted bid bond alternate and that this check qualified under the description of a certified check defined in the Encyclopedia of Banking and Finance (7th ed. 1973) as follows:

"CERTIFIED CHECK A check which certifies that the signature of the drawer is genuine and that the depositor has sufficient funds on deposit for its payment. The amount certified is then set aside for the express purpose of paying the check and payment cannot be refused because of insufficient funds."

Sealtite contends that the term "certified check" in itself does not mean that it has to be certified by a bank, but can be certified by the maker. Sealtite further states that if the Air Force wanted the check to be certified by a bank, it should have stated this in the bidding specifications.

The rejection of Sealtite's bid because of an insufficient bid guarantee was required in view of the past decisions of our Office, cited infra, and the applicable regulations. Armed Services Procurement Regulation (ASPR) § 2-404.2(h) (1974 ed.) provides:

"When a bid guarantee is required and a bidder fails to furnish it in accordance with the requirements of the invitation for bids, the bid shall be rejected except as otherwise provided in [§] 10-102.5 [of this chapter]."

While paragraph 4 of SF 22, included in the IFB, states that failure to furnish the required guarantee may be cause for rejection of the bid, the permissive term "may" is used to allow for the acceptance of a bid containing an insufficient guarantee if one of the exceptions in ASPR § 10-102.5 (1974 ed.) is present. None of these exceptions are applicable to the instant facts.

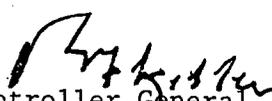
The lack of an authorized bank official's signature on the check invalidates the purported certification since no commitment exists by the bank to cover the value of the check. The Encyclopedia of Banking and Finance, at page 179, states in part:

B-186261

"* * * Certification consists of stamping or writing across the face of the check the word 'Certified' or 'Accepted', together with the date, the bank's title, and signature of the officer authorized to make certification."

Our Office has held that the failure to submit a proper bid bond or guarantee requires the rejection of the bid as non-responsive and that the failure may not be waived or otherwise excused. See Coronis Carpentry Co., Inc., B-184389, November 11, 1975, 75-2 CPD 291; Associated Refuse & Compaction Services, Inc., et al., B-180484, April 17, 1974, 74-1 CPD 201.

For the foregoing reasons, the protest is denied.


Deputy Comptroller General
of the United States