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**DECISION**



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

**FILE: B-187566**

**DATE: January 6, 1977**

**MATTER OF: Long's Air Conditioning, Inc.**

**DIGEST:**

Where principal on bid bond was identified by naming one firm as agent "for" another firm also named thereon, bond is unusual in form raising possibility that latter firm was added to bond instrument after execution by surety. In circumstances surety could argue after bid opening that it never agreed to apparent principal and bid accompanied by such bond was required to be rejected.

Long's Air Conditioning, Inc. (Long) protests award to anyone but itself under a Veterans Administration solicitation (Project No. NA-001-99), issued August 30, 1976, for replacement of the nurses call and entertainment system for the VA Hospital, Gainesville, Florida.

The contracting officer informed Long that its bid was considered nonresponsive because the firm name which appeared on the bid form (reverse of SF 21) and the firm name which appeared on the bid bond (SF 24) were not in agreement. The name, address, signature and title appearing on the bid form are shown as, "Long's Air Conditioning, Inc., 800 Rest Avenue, Avon Park, Florida, 33825, Kenneth R. Long, President." The principal, etc., at the top of the page of the bid bond, however, reads, "Johnson Controls, Inc., 507 East Michigan Street, Milwaukee, Wisconsin, 53202, for Long's Air Conditioning, Inc., 800 N. Rest Avenue, Avon Park, Florida, 33825," and the signature for the principal at the bottom of the page of the bid bond form reads, "Johnson Controls, Inc.," and contains the signature of "Marianne T. Jarmuz, Attorney-in-Fact." In addition, the bond states that the principal is incorporated in the state of Wisconsin, which is correct for Johnson but incorrect for Long, a Florida corporation.

**As explained by Long:**

"\* \* \*Because of the short lead time in finding out about the subject project, and in preparing our bid for the project, we were not able to obtain a Bid Bond through our normal sources and therefore had Johnson Controls, Inc. provide the Bid Bond for us.

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"\* \* \*this Bid Bond was issued by Safeco Insurance Company \* \* \*.

"\* \* \* Safeco Insurance Company does, in fact, bond Johnson Controls, Inc., and does in fact, bond Long's Air Conditioning for this particular project in that this Bid Bond was made out by Johnson Controls, Inc., for Long's Air Conditioning, Inc."

In rejecting Long's bid, VA relies upon our decision in A. D. Roe Co., 54 Comp. Gen. 271 (1974), 74-2 CPD 184, wherein we rejected a bid as nonresponsive because the bond, unlike the bid, identified the members of a joint venture as principals. There we noted that, "We have consistently held that a bid bond which names a principal different from the nominal bidder is deficient and the defect may not be waived as a minor informality." A. D. Roe Co., supra at 273. See also, New World Research Corp., B-186084, August 31, 1976, 76-2 CPD 206.

For the reasons stated below we agree that the bid was required to be rejected, but not for the same reasons stated by the agency.

As stated, Johnson in this case is named on the bid bond as principal "for" Long. Normally, use of the word "for" imports the existence of an agency relationship. 17 Words and Phrases 323 (West, 1958), and cases cited therein. We note that the bond was executed by Johnson, and its relationship as agent to Long, was acknowledged by the submission of the bond with Long's bid. Restatement (Second) of Agency, §93 et seq. (1957). As to the omission of Long's signature on the bond instrument, we consider this a minor informality where, as here, the bond is submitted with a signed bid. Forest Service Request for Advance Decision, B-186926, July 21, 1976, 76-2 CPD 88. On its face, therefore, the bond does not name a principal different from the firm which submitted the bid.

In our view, however, the bond is unusual in form and suggests that Long may have been identified as the intended principal on the bond after it was executed by the surety. Upon further examination of the bond instrument the possibility of alteration is reinforced because the typeface used to imprint Johnson's name and address differs from that used to type the addition of "for Long's Air Conditioning" and its address. The insertions concerning the principal's state of incorporation and identification of the surety

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and its agent appear in the former typeface. The bid identification and the penal sum of the bond are in the latter typeface. In addition, the former left no impression on the paper, suggesting that it was preprinted and subsequently modified.

Generally, suretyship arises only by the express agreement of the surety to be bound on behalf of the principal. 44 Comp. Gen. 495 (1965). Such an agreement, therefore, is considered a material requirement of the bid. Whether or not the essential agreement by the surety occurred in this case may be called into question because of the manner in which the real principal is identified on the bond instrument. In our opinion, the surety is in a position to argue after bid opening that it never agreed to bond Long and that Long was identified on the instrument after it was executed by the surety. Inasmuch as an ambiguous bid may not be explained by evidence brought into existence after bid opening, 40 Comp. Gen. 393 (1961), together with the uncertainty here as to whether the surety actually had intended at the time of the bid opening to bond Long, we must conclude that the rejection of Long's bid was required.

Accordingly, the protest is denied.

Deputy

*R. M. Hoffman*  
Comptroller General  
of the United States