

DOCUMENT RESUME

08096 - [C3288393]

[Erroneous Solicitation Reference in Bid Bond Did Not Render Bid Nonresponsive]. B-192750. November 21, 1978. 3 pp.

Decision re: Custodial Guidance Systems, Inc.; by Robert T. Keller, Deputy Comptroller General.

**Contact: Office of the General Counsel; Procurement Law I.
Organization Concerned: Public Buildings Service; Lu-San Enterprises, Inc.**

Authority: Small Business Act. 38 Comp. Gen. 532. 39 Comp. Gen. 60. B-160659 (1967). B-159209 (1966). B-168666 (1970).

A protester against a contract award alleged that the awardee's failure to submit a valid bid bond rendered its bid nonresponsive. A reference in the bond to an erroneous solicitation number was merely a clerical error since the correct bid opening date was referenced and there was no confusion as to the bid covered by the bond. The discrepancy did not affect the bond's enforceability by the Government and the bid was, therefore, properly determined to be responsive. (NTU)

DECISION

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

*R. Feldman
Proct II*

8393

FILE: B-192750

DATE: November 21, 1978

MATTER OF: Custodial Guidance Systems, Inc.

DIGEST:

Bid bond is enforceable by Government against surety notwithstanding reference in bond to erroneous solicitation number. Error was merely clerical because bond correctly referenced scheduled bid opening date, only one bid opening was conducted by procuring agency on that date and incorrect solicitation number involved prior procurement set aside for minority small business firms for which a bond was not required and in which bidder did not participate.

Custodial Guidance Systems, Inc. (Custodial) protests the award of a contract to its competitor Lu-San Enterprises, Inc. (Lu-San) under invitation for bids (IFB) 2PBO-VN-19,154 issued by the Public Buildings Service, General Services Administration (GSA), Region 2. The solicitation is for janitorial services at the Federal Building and Courthouse in Brooklyn, N.Y. Custodial alleges that Lu-San failed to submit a valid bid bond with its bid and, therefore, Lu-San's bid should have been rejected by GSA as nonresponsive.

Ordinarily, the failure to submit a bid bond with a bid requires the rejection of the bid as non-responsive. 38 Comp. Gen. 532 (1959). The record shows that Lu-San submitted a bond with its bid at the time of bid opening. We have been furnished a copy of Lu-San's bond which shows that it was executed on August 4, 1978, eleven days before bid opening. On the basis of the present record, we cannot conclude that Lu-San failed to submit a bid guarantee document with its bid.

However, Lu-San's bond erroneously identified the solicitation as Invitation No. "2-PBO-V19145." Therefore, the question for our resolution is whether the bond submitted with Lu-San's bid is enforceable by the Government against the surety despite the error in identifying the IFB. See 39 Comp. Gen. 60 (1959).

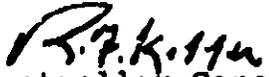
In analogous situations, we have considered the effect of an erroneously dated or undated bid bond. B-160659, June 9, 1967; B-159209, June 23, 1966. Consistent with our holding in the principal decision of 39 Comp. Gen. supra, we held that identification of the bond with the bid, by the proper IFB number and other information, was sufficient to eliminate any question as to the solicitation covered by the bond. We concluded that a bid bond which is identifiable with the only invitation outstanding for a particular procurement is enforceable by the Government against the surety and such a technically defective bond does not render a bid nonresponsive. 39 Comp. Gen. supra.

In the instant situation, under the notation "Bid Identification, Bid Date" Lu-San's bond indicated the correct bid opening date of August 15, 1978, and correctly identified the bid as one for services. Seals were affixed to the bond; the principal along with the attorney-in-fact for the surety company signed the bond. Except for the erroneous reference to invitation 2-PBO-V19145 (instead of "19154" and the omission of the "N" after the "V"), the bond was properly completed.

In the present case, and in all other instances in which Standard Form 24 is used, the purpose of the blank space for inserting the bid date is to identify the bid covered by the bond. B-168666, January 26, 1970. In this regard, GSA also reports that the procuring activity of the Building Management Division of the Public Building Service in Region 2, which issued the IFB, is the only GSA activity issuing solicitations with numbers beginning with "2PBO". Furthermore, the only bid opening conducted by the activity on August 15, involved IFB 2PBO-VN-19154. We have been advised by GSA that procurement "19145" was a past procurement set aside for minority firms under section 8(a) of the Small Business Act and that a bond was not required. Neither Lu-San nor Custodial participated in that procurement.

Under the circumstances, it does not appear that there could arise any confusion as to the bid covered by the bond, nor do we believe that the discrepancy in the IFB identification number would affect its enforceability by the Government against the surety. 39 Comp. Gen. supra; B-168666 supra. Clearly the error was merely clerical and unintentional. Therefore, Lu-San's bid was properly determined to be responsive.

Protest denied.


Deputy Comptroller General
of the United States