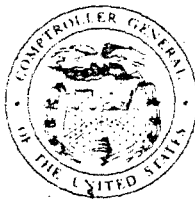


PL II

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D. C. 20548

10,623

FILE: B-194480

DATE: June 29, 1979

MATTER OF: K-W Construction, Inc.

DLG 01998

DIGEST:

[Protest of Bid Rejection For Inconsistency in Bidder's Name]

1. Agency may consider official documents submitted after bid opening which existed and were publicly available prior to bid opening in order to establish sameness of ~~different~~ ^{named} entities named in bid and bid bond.
2. Although bidder's name in bid appears, in part, as "K.W." rather than "K-W", its official name, and an unnecessary comma was added to firm's name in bid bond, the differences in punctuation are matters of form which do not affect the firm's identity. In circumstances, surety should be permitted to correct principal's name to conform to the name authorized in the state where performance will occur.

K-W Construction, Inc., protests the rejection of its bid on invitation for bids (IFB) No. DACA05-79-B-0060, issued by the Sacramento District, Corps of Engineers (Army), for construction at Mather Air Force Base, California.

AGC 00216

The Army rejected the bid because the bidder's name on the bid was not identical to the principal named on the bid bond. The principal named on the bid bond is "K-W Construction, Inc., 3751 Mill Street, Reno, Nevada." The bid form, the "Representations and Certifications" to the bid, and amendment 0001 to the IFB all name the bidder as "K.W. Western Constructors," at the same address.

Subsequent to bid opening and prior to award the protester has attempted to show that the principal named in the bond is the same entity identified in

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the bid. The record contains a copy of the bidder's amended articles of incorporation which shows the existence of a Nevada corporation with the name K-W Construction Inc. Moreover, in July 1977 the State of California issued a Certificate of Qualification authorizing the Nevada corporation, K-W Construction Inc., to do business in California as K-W Western Constructors. We note that these documents existed and were publicly available at the time of bid opening and we think such evidence may be submitted after bid opening and prior to award to establish the sameness of the entities named in the bid and the bid bond. A similar evidentiary rule has been followed with respect to furnishing proof of bidding authority after the bid opening. Cf. Jordan Contracting Company, et al., B-186836, September 16, 1976, 76-2 CPD 250.

Although the first two letters of the firm's name as it appears in the bid are written as "K.W." rather than "K-W" as provided in the California Certificate of Qualification and a comma is added to the firm's name in the bid bond, these punctuation differences are matters of form which do not affect the identity of the firm. In our opinion, the evidence submitted shows that the firm named in the bid bond is the same firm identified in the bid.

In the case cited by the contracting officer in support of his position, A. D. Roe Company, Inc., 54 Comp. Gen. 271 (1974), 74-2 CPD 194, a bid was submitted in the name of one firm while the principal named on the accompanying bid bond was a joint venture. We held, in accordance with established case law, that the joint venture and single firm were not identical entities and that the surety would not be bound upon the default of the bidder. We further recognized, however, that a bid could be accepted, even if the principal named on the bond differed from the named bidder, if the bidder "was the same legal entity as the principal named on the bid bond." Here, unlike the situation in Roe, we find the principal on the bond and the bidder to be the same legal entity. Consequently, we sustain the protest.

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We note that the surety has indicated its willingness to re-execute the bond in the firm's California business name. Since the contract will be performed in California, the discrepancy should be corrected and award made to the protester if otherwise proper. Defense Acquisition Regulation § 2-405 (1976 ed.).


Acting Comptroller General
of the United States