

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

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FILE: B-211202**DATE: April 20, 1983****MATTER OF: Inland Service Corporation****DIGEST:**

1. Matter of acceptability of individual bid bond sureties concerns question of responsibility, not responsiveness.
2. Protest on basis of sufficiency of individual bid bond sureties is dismissed since it involves matter of responsibility and GAO does not review affirmative determinations of responsibility unless protester shows fraud on part of procurement officials or solicitation contains definitive criteria which allegedly have not been applied.

Inland Service Corporation (Inland) contends that the Reliable Trash Service (Reliable) bid under Fort Polk invitation for bids No. DAKF24-83-B-0059 should be rejected as nonresponsive because Reliable submitted a bid bond without sufficient sureties. Inland states that the individual sureties on the Reliable bid bond either do not have sufficient net worths in view of their obligations as indemnitors on other bonds with the Department of the Army or have improperly not disclosed on their Affidavits of Individual Surety (Standard Form 28) the other bonds on which they are obligated as sureties.

We dismiss the protest.

The question of the acceptability of an individual surety is one of responsibility, not responsiveness. Dan's Janitorial Service, Inc., 61 Comp. Gen. 592 (B-205823; B-205843; B-206469, September 9, 1982), 82-2 CPD 217. We have held, as regards this issue, that the contracting agency may consider the failure of an individual surety to disclose outstanding bond obligations on his affidavit as a factor in determining the acceptability of the surety, since the purpose of the bid bond requirement is the protection of the financial interests of the Government in the event the

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bidder fails to execute the required contract documents and deliver the required performance and payment bonds. Dan's Janitorial Service, Inc., supra. To achieve that purpose, the Government may require that individual sureties on a bond have a net worth at least equal to their total potential bond liabilities, since the amount of those potential liabilities may have a bearing on the financial soundness of each surety, regardless of the financial risk involved. Dan's Janitorial Service, Inc., supra. Defense Acquisition Regulation § 10-201.2 (1976 ed.) specifies that the contracting officer may decide whether the total, a portion or none of the surety's other bonding obligations should be deducted from its net worth.

As indicated above, the matter involved is one of responsibility. Our Office does not review affirmative determinations of responsibility unless the protester shows fraud on the part of the procurement officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Kingshead Corporation, B-207817, July 1, 1982, 82-2 CPD 10. Neither exception applies here.

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