

DECISION

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

31786

FILE: B-219591; B-219594 **DATE:** July 25, 1985

MATTER OF: F&F Pizano

DIGEST:

A bid accompanied by a bid bond on which no penal sum has been inserted is nonresponsive and must be rejected.

F&F Pizano protests the rejection of its bid as nonresponsive by the Department of Agriculture under invitation for bids Nos. SCS-13-PA-85 and SCS-27-PA-85. The bids were found nonresponsive because the penal sum was omitted from the bid bonds accompanying each of the bids. We dismiss the protest.

Pizano contends that the omission of any penal sum from the bid bonds is a minor informality which the agency should have either waived or given Pizano an opportunity to cure. We have held, however, that a bid accompanied by a bid bond containing no penal sum is nonresponsive. Allen County Builders Supply, B-216647, May 7, 1985, 64 Comp. Gen. ____, 85-1 CPD ¶ 507. The rationale for this conclusion is that where no penal sum is inserted on the bond, no obligation in a sum certain is undertaken by the surety, and the bond is therefore defective.

When a bidder supplies a defective bid bond, the bid itself is rendered defective and must be rejected as nonresponsive. Hydro-Dredge Corp., B-214408, Apr. 9, 1984, 84-1 CPD ¶ 400. As with other matters relating to the responsiveness of a bid, the determination as to whether a bid bond is acceptable must be based solely on the bid documents themselves as they appear at the time of bid opening. Id. Accordingly, we find no merit to Pizano's contention that the omission of the penal sum from the bid bond here is a minor informality, subject to waiver or correction.

Furthermore, the fact that the penal sum was omitted from the bid bond by mistake provides no basis for relief. Mistake-in-bid procedures are not available to cure a nonresponsive bid. B.K. Instrument, Inc., B-212162, Nov. 30, 1983, 83-2 CPD ¶ 627.

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Pizano also argues that by signing the bond in blank form, the sureties implicitly authorized the contracting officer to fill in the penal sum of the bond in accordance with the requirements of the solicitation. The courts, however, are divided on this issue. See 12 Am. Jur. 2d Bonds § 23 (1964); Annot., 37 A.L.R. 1395 (1925). Under these circumstances, we find the protester's position unpersuasive.

The protest is dismissed. 4 C.F.R. § 21.3(f) (1985).



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