

**DECISION**



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

B-219326

**FILE:**

**DATE:** August 1, 1985

Coastal Elevators, Inc.

**MATTER OF:**

**DIGEST:**

Where solicitation for construction work in excess of \$25,000 requires the awardee to furnish performance and payment bonds pursuant to the Miller Act, U.S.C. §§ 270a-270f (1982), protest that "optional" requirement for a bid guarantee should be deleted from solicitation because it places an "unnecessary burden" on local small business concerns is dismissed because applicable regulations require a bid guarantee when Miller Act bonds are required.

Coastal Elevators, Inc., protests a solicitation requirement for the submission of a bid guarantee in Department of the Navy invitation for bids No. N62467-84-B-0782. The solicitation is for modifications to certain elevators at the Charleston Naval Shipyard, Charleston, South Carolina. The protester is of the view that bid guarantees are optional and requests that the requirement be withdrawn because it places an "unnecessary burden" on small businesses and restricts competition. The protest is dismissed.

The contract in this case will be for construction work in excess of \$25,000, and under the Miller Act (40 U.S.C. §§ 270a-270f (1982)), the awardee is required to furnish performance and payment bonds for the protection of the United States and all persons supplying labor and materials under the contract. Federal Acquisition Regulations (FAR), 48 C.F.R. § 28.102-1 (1984); see also Sovereign Electric Company--Request for Reconsideration, B-214699.2, Feb. 12, 1985, 85-1 C.P.D. ¶ 183. The use of bid guarantees is mandatory when performance and payment bonds are required. FAR, 48 C.F.R. § 28.101-1 (1984). Therefore, the bid guarantee requirement is not optional, and the protest is dismissed.

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