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DECISION



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

B-219938

FILE:

Roy Bennett

DATE: December 20, 1985

MATTER OF:

DIGEST:

1. Bid submitted in the name of an unincorporated entity, signed by an individual as "owner," is responsive and sufficient to obligate the entity as a sole proprietorship, notwithstanding the bidder's submission after bid opening of an erroneous certification of incorporation.
2. The failure to include completed standard representations and certifications does not affect the bidder's material obligation and, therefore, may be waived as a minor informality.

Roy Bennett protests the proposed award of a contract to G.C. Self by the Army under invitation for bids (IFB) No. DAKF24-85-B-0088. We deny the protest.

The contract is for hauling at Fort Polk, Louisiana. G.C. Self submitted only the cover page to the IFB and one additional page on which Mr. Self noted his DUNS number (a commercial identification number assigned to a business by Dun & Bradstreet, Inc.). The bid was submitted in the name of Self Diesel Service and signed "G.C. Self Owner." At the Army's request, G.C. Self returned completed copies of the IFB's representations and certifications, including a certification to establish the authority of the signature on the bid to bind a corporate bidder. Mr. Self checked a box representing that the bidder was a corporation and stated that the corporation operated under Louisiana law. The certification of incorporation, however, stated his name as "owner." Believing that Self Diesel Service was a corporation, the Army informed Mr. Self that he had incorrectly executed the corporate certification and requested a corrected one. G.C. Self then submitted a certification executed by Ray Self, Secretary, certifying that G.C. Self was the president of the corporation. G.C.

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Self subsequently explained that the bid was submitted by a sole proprietorship, not a corporation.

Roy Bennett asserts that the bid is unacceptable because G.C. Self's certification was provided late and because there is no corporation under the laws of Louisiana named "Self Diesel Service," "Self Diesel Service, Inc.," or "Self Diesel Service Company" which could have authorized G.C. Self to bid on its behalf. Roy Bennett contends that G.C. Self's bid therefore must be rejected. Further, Roy Bennett argues that the bid is nonresponsive for failure to include the standard representations and certifications provisions of the solicitation.

The Army contends that the bid was submitted in the name of G.C. Self - Owner, as a sole proprietorship with no indication that it was intended to be a corporate bid, and that Roy Bennett's arguments regarding G.C. Self's corporate status therefore are irrelevant. The Army states that Mr. Self evidently regarded the certification of incorporation included in the solicitation as requiring him to show evidence of incorporation regardless of whether the bid was submitted by a corporation or not. Since, as the protester points out, there is no corporation named Self Diesel Service, the Army maintains that the erroneous representations and certifications submitted after bid opening do not affect the propriety of an award to G.C. Self as a sole proprietorship. The Army also states that there is a Louisiana corporation in the name of "G.C. Self, Inc." which demonstrates that Mr. Self's attempted representations of corporate status were in good faith.

We agree with the Army. Where it is possible to identify sufficiently the actual bidder so that the bidding entity would not be able to avoid an award or to substitute parties, the bid may be accepted if it is otherwise responsive. See Industrial Design Labs, Inc., 64 Comp. Gen. 8 (1984), 84-2 CPD ¶ 413. The Army, notwithstanding some initial confusion, clearly established that the bidder is a sole proprietorship and there is no corporation for which the bidder can be mistaken. The bid explicitly incorporates all of the provisions of the IFB and, therefore, is sufficient to obligate Self Diesel Service, in an unincorporated capacity as a sole proprietorship, to the IFB's material terms. See Executive-Suite Services, Inc., B-185935, Aug. 2, 1976, 76-2 CPD ¶ 109. The bid therefore is responsive. Furthermore, we point out that the bid's

failure to include completed standard representations and certifications does not affect the bidder's material obligations and, therefore, may be waived as a minor informality. See Jersey Maid Distributors, Inc., B-217307, Mar. 13, 1985, 85-1 CPD ¶ 307.

The bid therefore is responsive and the Army properly may accept the bid submitted by Mr. Self.

for *Leyman* *Geo*
Harry R. Van Cleve
General Counsel