



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Clyde McHenry, Inc.  
File: B-224169  
Date: September 25, 1986

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### DIGEST

Where a bid is submitted in the name of one firm, but is accompanied by a bid bond which identifies that firm and also another firm as the principal, the bond is materially defective, requiring rejection of the bid as nonresponsive, because the surety's obligation under the bond is unclear.

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### DECISION

Clyde McHenry, Inc. protests the rejection of its low bid as nonresponsive under invitation for bids (IFB) No. DTCG26-86-B-00742, issued by the United States Coast Guard, Department of Transportation. The Coast Guard rejected the bid on the ground that the accompanying bid bond was materially defective.

We dismiss the protest.

The bid document named the bidder as "Clyde McHenry, Inc." and was signed by Clyde T.J. McHenry, the firm's president. However, the accompanying commercial form bid bond identified the principal on the bond as "All Weather, Inc. . . . & Clyde McHenry, Inc. . . .," and the bond was signed by both All Weather's general manager and by Mr. McHenry. The Coast Guard determined that the bond was unacceptable because the principal shown on the bond was different from the bidder named in the bid. That determination was proper.

It is well settled that a bid bond which names a principal different from the nominal bidder is materially defective and, accordingly, the defect cannot be waived. A.D. Roe Co., Inc., 54 Comp. Gen. 271 (1974), 74-2 CPD ¶ 194. This strict rule is prompted by the law of suretyship which holds that no one incurs a liability to pay the debts or perform the duty of another unless he expressly agrees to be bound, and that a surety under a bond in the name of more than one principal is not liable for the default of one of them. Id.

Thus, we held that a bid was properly rejected as nonresponsive where the bid identified one firm as the bidder, but the principal on the bond was shown to be that firm and another firm acting together in a joint venture. Opine Construction, B-218627, June 5, 1985, 85-1 CPD ¶ 645. Quite similarly, the bid bond here was materially defective, requiring rejection of bid, because the bond identified the principal to include All Weather as well as Clyde McHenry, the bidder.

The protest is dismissed.



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