



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Hannan Associates Inc.

File: B-226180

Date: February 20, 1987

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### DIGEST

Offeror's status as woman-owned small business does not provide basis for waiver of solicitation's bid guarantee requirement.

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### DECISION

Hannan Associates Inc. protests the rejection of its bid and the award by the General Services Administration (GSA) of contract No. GS-11P-86-MKC2083 to a higher bidder. Hannan's bid was rejected because it did not include an acceptable bid guarantee. We dismiss the protest.

According to the protester, the solicitation contained the clause specified in the Federal Acquisition Regulation (FAR), 48 C.F.R. § 52.228-1 (1985), which requires bidders to submit bid guarantees in the form of a firm commitment, such as a bid bond, postal money order, certified check, cashier's check, irrevocable letter of credit or certain bonds or notes of the United States. The underlying principle of these examples of acceptable forms of a bid guarantee under the FAR clause is that the obligation should be beyond anyone's control to revoke. Dustin R. Lohof, 64 Comp. Gen. 770 (1985), 85-2 CPD ¶ 177.

Hannan indicates that a check for \$11,339.00 accompanied its bid "as a form of firm commitment." By "check," we assume that Hannan means an uncertified personal check. An uncertified personal check lacks the status of a firm commitment, however, since the obligation could be revoked due to insufficient funds or a stop payment order. Edward D. Griffith, B-188978, Aug. 29, 1977, 77-2 CPD ¶ 155.

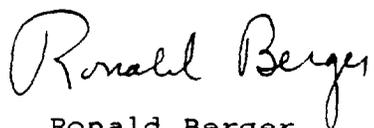
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Hannan argues that since FAR, 48 C.F.R. § 52.228-1, provides that the failure to provide an acceptable bid guarantee may be cause for rejection of the bid, but does not state that the bid will be rejected, the contracting officer has the discretion to waive the requirement. Hannan contends that this discretion should have been exercised in its favor because it is a woman-owned business, and FAR, 48 C.F.R. § 52.219-13, provides that woman-owned small businesses shall be given the maximum practicable opportunity to participate federal procurements.

The failure to furnish a bid guarantee in accordance with the solicitation's terms requires the rejection of the bid as nonresponsive. Consolidated Installations Corp., B-202630, Apr. 20, 1981, 81-1 CPD ¶ 301. Thus, we have held that the statement in the bid guarantee requirement that failure to comply "may be cause for rejection" of a bid is just as compelling and material as if more positive language were employed. Id. As a result, the contracting agency has no blanket discretion to waive deficiencies in bid guarantees. Colorado Elevator Service, Inc., B-206950.2, May 6, 1982, 82-1 CPD ¶ 434. The only circumstances in which noncompliance with a solicitation requirement for a bid guarantee may be waived are those set forth in the FAR, 48 C.F.R. § 28.101-4. The status of an offeror as a woman-owned small business is not among the exceptions.

Hannan also claims that acceptance of its bid would save the government money. This is irrelevant since the public interest in maintaining the integrity of the competitive bidding system outweighs any pecuniary advantage that the government might gain in a particular case by violating procurement regulations. Electrical Systems Engineering Co., B-223199, Sept. 4, 1986, 86-2 CPD ¶ 258.

The protest is dismissed.



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