



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Granville Construction Corp.

File: B-230124

Date: February 9, 1988

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### DIGEST

Federal Acquisition Regulation §§ 28.101-1 and 28.102-1 do not preclude the government from requiring a bid guarantee for a construction contract under \$25,000 where performance and payment bonds are also required.

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### DECISION

Granville Construction Corp. protests the rejection of its bid in response to invitation for bids No. FWS5-88-006, issued by the Fish and Wildlife Service, United States Department of the Interior, for the replacement of an existing underground masonry and concrete valve pit. The estimated price range contained in the solicitation was between \$25,000 and \$100,000. Granville's bid was found to be nonresponsive due to the protester's failure to furnish a bid guarantee in the amount of 20 percent of the bid price as required in the solicitation. Granville claims that, under Federal Acquisition Regulation (FAR) § 28.102-1 (FAC 84-26), it should not have to supply a bid guarantee since its bid does not exceed \$25,000.

FAR § 28.102-1 states that the Miller Act (40 U.S.C. §§ 270a-270f) requires the use of performance and payment bonds in connection with any construction contract exceeding \$25,000. However, neither the FAR nor the Miller Act prohibit their use in smaller construction contracts.

With respect to bid bonds, FAR § 28.101-1 (FAC 84-12) states only that the use of bid guarantees is required when a performance bond or a performance and payment bond are required. See Pine Street Corp., B-210599, Feb. 17, 1983, 83-1 CPD ¶ 168. The solicitation at issue requires a performance bond of 100 percent of the contract price and a

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payment bond of 50 percent of the contract price. The bond requirements in the solicitation are consistent with FAR §§ 28.101-1 and 28.102-1. Granville's bid was therefore nonresponsive and was properly rejected.

The protest is dismissed.

*James W. Vickers*  
*for*

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