



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: M/V Constructor Co.

File: B-232572

Date: September 20, 1988

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### DIGEST

A bid accompanied by a bid bond on which no penal sum has been inserted is nonresponsive and must be rejected.

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### DECISION

M/V Constructor Co. protests the rejection of its apparent low bid as nonresponsive by the United States Coast Guard under invitation for bids (IFB) No. DTCG87-88-B-80019. According to the protester, the bid was found nonresponsive because no penal sum had been entered on the bid bond accompanying the bid.

We dismiss the protest without obtaining a report from the agency since it is clear from the face of the protest that it does not state a valid basis for protest. 4 C.F.R. § 21.3(m) (1988).

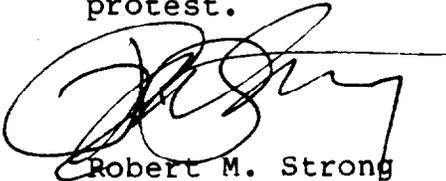
M/V Constructor argues that its admitted omission of the penal sum from the bid bond is only a minor informality which does not render the bid nonresponsive. The protester adds that the penal sum "is otherwise identified in the solicitation . . . and in the bid [itself] and for that reason the bond must be considered acceptable in that its execution and delivery as a part of the [bid] is sufficient to fix the sureties' liability under the bond even though the bond itself omitted the penal sum." The protester also argues, in the alternative, that the question of the sufficiency of its bid bond concerns its responsibility, rather than the responsiveness of its bid, and should be referred to the Small Business Administration for a Certificate of Competency since the protester is a small business.

Contrary to the protester's assertion, the sufficiency of its bid bond under these circumstances is not a matter of the bidder's responsibility but of the bid's responsiveness. The submission of a defective bid guarantee with a bid

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requires, except where the defect constitutes a minor informality, that the bid be rejected as nonresponsive. See Federal Acquisition Regulation § 28.101-4 (FAC 84-12); Contract Services Co., Inc., B-226774.3, Feb. 8, 1988, 88-1 CPD ¶ 119. Further, in a decision which is directly on point, we held that the failure to indicate the penal amount of a bid bond is a defect which can not be waived as a minor informality. See Allen County Builders Supply, 64 Comp. Gen. 505 (1985), 85-1 CPD ¶ 507. In the Allen case we specifically rejected the argument, which the protester apparently makes here, that the penal sum of the bid bond can be inferred from a reference on the bond to the IFB number, thereby curing the defect. We also found in the Allen case that the requisite obligation of the surety could not be clearly created without inserting a specific penal sum in the place provided on the bond.

Since the protester concedes that the bid bond accompanying its bid failed to indicate the penal amount of the bond, we dismiss its complaint against the rejection of its bid as nonresponsive for failing to state a valid basis for protest.



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