The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Gem Construction Co., Inc.

File: B-233140

Date: February 13, 1989

DIGEST

Procuring agency reasonably rejected bid for nonresponsibility of individual sureties on bid bond where the sureties' integrity was called into question because both were on the current General Services Administration list of debarred bidders.

DECISION

Gem Construction Co., Inc., protests the rejection of its bid as nonresponsive under invitation for bids No. F08651-88-B-0052, issued by the Air Force. The Air Force determined that Gem's bid was nonresponsive because both of Gem's bid bond sureties were debarred on the date that they executed Gem's bid bond. We deny the protest.

The solicitation was issued on August 22, 1988, for renovation of building 11003 at Elgin AFB, Florida. At bid opening on September 22, 1988, Gem submitted the low bid of $617,700, and Lord and Son Construction, submitted the second low bid of $644,446. The solicitation required bidders to submit a bid guarantee, equal to 20 percent of their bid. Gem's bid bond was secured by individuals, each of whom submitted an affidavit on a Standard Form 28.

The contracting officer determined that both of Gem's individual sureties were listed as debarred parties in the General Services Administration's (GSA) September 1988 list of parties excluded from federal procurement programs. Accordingly, the contracting officer determined that Gem's sureties were nonresponsible and rejected Gem's bid. Award was made to the next low bidder, on September 30, 1988.

Individuals who appear on the GSA debarred contractors list are excluded from receiving government contracts, or from conducting business with the government as agents or

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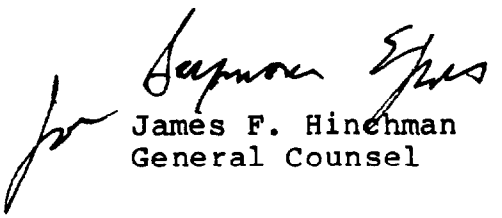
representatives of other contractors. Such individuals are debarred, after an opportunity for a hearing, for serious or compelling causes, such as: (1) conviction of or civil judgment for commission of fraud or a criminal offense in connection with a public contract or subcontract, or in connection with other matters which indicate lack of business integrity or honesty; or (2) serious violation of the terms of a government contract such as willful failure to perform in accordance with contract terms, or a history of failure to perform, or unsatisfactory performance of contracts. In our view, the sureties' debarment for such practices provided the procuring agency with a reasonable basis to question the accuracy of the sureties financial representations, and, therefore, to make a nonresponsibility determination. See Gem Construction Co., Inc., B-232271, Nov. 29, 1988, 88-2 CPD ¶ 530.

The protest is denied.



James F. Hinchman
General Counsel