

J. V. Olivero



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Jay Schartz Contracting

File: B-237481

Date: October 30, 1989

DIGEST

Bid was properly rejected for a defective bid bond where bond listed one company as surety and contained power of attorney and seal from another company.

DECISION

Jay Schartz Contracting protests the rejection of its low bid submitted in response to solicitation No. R6-15-90-5 issued by the Forest Service, United States Department of Agriculture for tree planting at the Umpqua National Forest, Diamond Lake Ranger District. Schartz's bid was rejected because of a defective bid bond.

We dismiss the protest.

Schartz's bid bond listed Continental Guaranty Credit Corporation as the surety. However, the bond's power of attorney and seal were from the Continental Insurance Company. Schartz explains that the discrepancy was the result of a typographical error committed by its insurance agent--the agent placed the wrong company's name as surety on the bond. According to the protester the Continental Insurance Company was the intended surety.

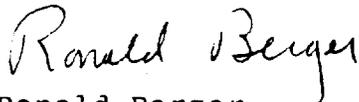
When required by a solicitation, a bid bond is a material part of a bid and, therefore, must be furnished with it. When a bidder supplies a defective bond the bid itself is rendered defective and must be rejected as nonresponsive. The determinative question as to the acceptability of a bid bond is whether the bidding documents establish that the bond could be enforced if the bidder did not execute the contract. Minority Enterprises, Inc., B-216667, Jan. 18, 1985, 85-1 CPD ¶ 57.

046933/139552

Here, the bid bond shows one corporate entity as the surety while the power of attorney and seal are from a different corporation. It is therefore clear that the bond could not be enforced against either firm and was therefore unacceptable. See Baker-Roberts, Inc., B-213148, Feb. 14, 1984, 84-1 CPD ¶ 195. The bid was thus properly rejected as nonresponsive.

Schartz has submitted a letter from its insurance agent stating that Continental Insurance Company would have honored the bond such evidence cannot be considered since a nonresponsive bid cannot be made responsive after bid opening through an explanation of what was intended. Minority Enterprises, Inc., B-216667, supra.

The protest is dismissed.



Ronald Berger
Associate General Counsel