

Spiegel



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: APMCO, Inc.
File: B-235831.3; B-236695
Date: December 27, 1989

DIGEST

Bid properly rejected where bidder found nonresponsible for its failure to provide sufficient information that individual bid bond sureties were acceptable.

DECISION

APMCO, Inc. (also known as Allied Production Management Co., Inc.), protests the rejection of its bids under invitation for bids (IFB) Nos. N62474-88-B-4057 and N62474-89-B-6077, issued by the Department of the Navy, for building modifications at the Mare Island Naval Shipyard in Vallejo, California, and at the Marine Corps Air Ground Combat Center in Twentynine Palms, California, respectively. The Navy rejected APMCO's bids on these IFBs on the basis that its individual bid bond sureties failed to submit adequate proof of net worth equal to or exceeding the penal sum of the bond. APMCO contends that the documentation it submitted on behalf of those sureties demonstrated a sufficient net worth on the part of those sureties.

We deny the protests.

APMCO was the apparent low bidder on the two solicitations, each of which required bid bonds in an amount equal to the lesser of \$3 million or 20 percent of the bid price. APMCO's bids were both guaranteed by the same individual sureties, Lee Nixt and Richard Rowan. Based on APMCO's submitted affidavits and supporting documents, the contracting officials could not accurately determine the sureties' net worths and requested additional documentation from APMCO.^{1/} APMCO submitted no further information regarding

^{1/} Although APMCO claims not to have received the Navy request for additional information on IFB -4057, the record shows it was made.

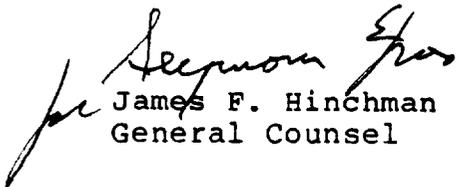
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its sureties on IFB -4057 and submitted some additional information on IFB -6077.

We recently considered the identical issue of whether APMCO's bid was properly rejected by the Navy on the basis of a contracting officer's determination that APMCO's sureties (Messrs. Nixt and Rowan) had failed to demonstrate a net worth equal to or exceeding the penal sum of the bond. See Allied Prod. Management Co., Inc., B-236227.2, Dec. 11, 1989, 89-2 CPD ¶ _____. The documentation submitted by Allied on behalf of its sureties in that case is virtually identical to that submitted by APMCO under these IFBs. The protester's arguments against the agency's rejection here are essentially the same ones considered in the previous decision. In our decision of December 11, we found that the Navy reasonably determined that APMCO failed to provide sufficient information to permit a finding that Mr. Nixt and Mr. Rowan were acceptable sureties. We also concluded that APMCO could not be permitted to replace the unacceptable sureties after bid opening because surety liability is an element of responsiveness which must be established at the time of bid opening.

Since the circumstances here are virtually the same as those in our prior case, we see no basis for objecting to the contracting officer's decisions to reject APMCO's bids.

We deny the protests.


James F. Hinchman
General Counsel