



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Allied Production Management Co., Inc.
File: B-237653
Date: January 18, 1990

DIGEST

1. Agency reasonably found bidder nonresponsible where bidder failed to provide sufficient information to permit a finding that the individual sureties on its bid bond were acceptable.
2. A contracting officer's determination that a small business firm is nonresponsible need not be referred to the Small Business Administration when the determination is based upon the unacceptability of the bidder's bond sureties.

DECISION

Allied Production Management Co., Inc., protests the rejection of its bid under invitation for bids (IFB) No. N62471-88-B-2379, issued by the Department of the Navy for the painting of equipment and buildings at sewage lift stations at various locations in Oahu, Hawaii. The contracting officer rejected Allied's bid based in part on his determination that neither of the individual bid bond sureties had demonstrated a net worth equal to or exceeding the penal sum of the bond. Allied contends that the documentation it submitted on behalf of its sureties demonstrated each to be of sufficient net worth. Allied further contends that the contracting officer's determination of nonresponsibility should have been referred to the Small Business Administration (SBA) for review under its certificate of competency procedures.

We deny the protest.

The IFB required each bidder to provide a bid bond. Allied submitted a bid bond listing of Richard Rowan and Lee Nixt as individual sureties. Based on Allied's submissions, the

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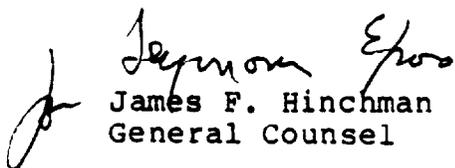
contracting officer could not accurately determine the sureties' net worths and requested additional documentation from Allied. Allied submitted further information. However, based on this information and other materials furnished, the contracting officer concluded that Allied's sureties had not established their financial acceptability and rejected Allied as nonresponsible. This protest followed.

We have in recent decisions considered the identical issue of whether the Navy properly rejected Allied's bid based on a determination by the contracting officer that Mr. Nixt and Mr. Rowan, Allied's two sureties, had failed to demonstrate a net worth equal to or exceeding the penal sum of the bond. See, for example, Allied Production Management Co., Inc., B-236227.2, Dec. 11, 1989, 89-2 CPD ¶ ; Allied Production Management Co., Inc., B-236121.2; B-236899, Dec. 18, 1989, 89-2 CPD ¶ . The documentation submitted by Allied on behalf of its sureties in those cases was virtually identical to that submitted in connection with the bid under this IFB. The protester's arguments against the agency's rejection here are essentially the same ones considered in the previous decisions. In our decisions of December 11 and December 18, we found that the agency reasonably determined that Allied failed to provide sufficient information to permit a finding that Mr. Nixt and Mr. Rowan were acceptable sureties. We therefore concluded that the Navy properly found Allied nonresponsible.

Since the circumstances here are virtually the same as those in our prior cases, we see no basis for objecting to the contracting officer's decision to reject Allied's bid.

As for referral to the SBA, an evaluation of surety responsibility is based exclusively on the qualifications of the surety rather than the bidder. Since we are not aware of any congressional intention to bring surety qualifications under the scrutiny of the SBA through the Small Business Act, we have held that when the determination that a bidder is nonresponsible is based solely on the unacceptability of its sureties, the determination need not be referred to the SBA. Falcon Assocs. Inc., B-236420, Aug. 18, 1989, 89-2 CPD ¶ 154.

The protest is denied.


James F. Hinchman
General Counsel