



Comptroller General  
of the United States  
Washington, D.C. 20548

# Decision

**Matter of:** William V. Walsh Construction Company, Inc.  
**File:** B-241257  
**Date:** October 3, 1990

Mark R. Hinkston, Esq., Lathrop Norquist & Miller, for the protester.  
Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

## DIGEST

The validity of a bid bond that does not include the signature of the surety's attorney-in-fact is sufficiently questionable to warrant rejection of the bid as nonresponsive.

## DECISION

William V. Walsh Construction Company, Inc. protests the General Services Administration's (GSA) rejection of its bid as nonresponsive to solicitation No. GS-11P90MKC0199, which was issued for building renovations. Although Walsh's bid bond was affixed with the corporate seal of the surety and contained the power of attorney appointing the attorney-in-fact, it was not signed by the attorney-in-fact and was therefore found by the contracting officer to be unenforceable. The bid was rejected as nonresponsive because of the defective bid bond. We dismiss the protest.

The purpose of the bid bond requirement is to protect the financial interests of the government in the event the bidder fails to execute the required contract documents and deliver the required bonds. Golden Reforestation, Inc., B-230169, Feb. 25, 1988, 88-1 CPD ¶ 196.

Contrary to Walsh's assertion, the omission of the signature of the surety's attorney-in-fact is not a mere informality which should have been waived. The bid bond is a material part of the bid so that a defective bond renders the bid nonresponsive, unless the bidding documents establish that the bond could be enforced if the bidder did not execute the contract. Crimson Enter., Inc., B-220204, Oct. 1, 1985, 85-2 CPD ¶ 363.

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Here, the bond was not signed by a representative of the surety. While the surety's corporate seal was affixed to the bond, a corporate seal generally is not the same as a signature nor is it equivalent to a signature. It merely attests or authenticates the signature. See Italo-Petroleum Corp. of Am. v. Hannigan, 40 Del. 534, 14 A.2d. 401 (1940); Fletcher Cyc. Corp., § 2471.10 (1978). Concerning the general power of attorney, since the bond was unexecuted, the general power of attorney, standing alone, did not clearly bind the surety. Because suretyship law strongly suggests that a bond will be strictly construed in favor of the surety, and that liability will not be found by construction or implication, see Fitzgerald & Co., Inc.--Recon., B-223594.2, Nov. 3, 1986, 86-2 CPD ¶ 510, we conclude that the contracting officer properly found Walsh's bid bond materially defective and properly rejected its bid as nonresponsive since sufficient doubt existed as to the enforceability of the bid bond. Henry Blag. & Eng'g, Inc., B-239708, Sept. 17, 1990, 90-2 CPD \_\_\_1/

Walsh also argues that its bid should have been accepted because its lower price represents a savings to the government. We disagree. A nonresponsive bid may not be accepted, even where it might result in a monetary savings to the government, since acceptance would compromise the integrity of the sealed bidding process. Systron Donner, B-230945, July 5, 1988, 88-2 CPD ¶ 7.

The protest is dismissed.



Michael R. Golden  
Assistant General Counsel

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1/ The protester further argues that the contracting officer should have waived the failure of Walsh's representative to sign the bid bond as a minor informality since it is clear that the surety intended to be bound by the document. The short answer is that the defective bid bond rendered the bid nonresponsive which may not be waived after bid opening. See Seaboard Elecs. Co., B-237352, Jan. 26, 1990, 90-1 CPD ¶ 115.