



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

Decision

Matter of: West Div Development Corporation
File: B-246030; B-246031
Date: January 17, 1992

DECISION

West Div Development Corporation protests the rejection of its bids as nonresponsive for failure to submit duly executed bid bonds for two solicitations issued by the Department of the Navy. The first bid was under invitation for bids (IFB) No. N62474-89-B-6066 (-6066) for replacement of heating and cooling systems at the Marine Corps Air Ground Combat Center in Twentynine Palms, California. The second bid was under IFB No. N62474-89-B-6090 (-6090) for construction of a car wash at that same facility.

We dismiss the protests because they fail to state a valid basis for protest. See 4 C.F.R. § 21.3(m) (1991).

At bid opening, West Div was the apparent low bidder for both solicitations.¹ Both solicitations required bid guarantees for 20 percent of the bid price. West Div submitted bid bonds that the Navy found defective because they were not signed by the named individual surety. Specifically, as to IFB No. -6066, the Navy says it received a bid bond signed only by West Div's principal.² As to IFB No. -6090, the Navy says that it received a blank bid bond, accompanied by real property liens signed by the named individual surety. The Navy has provided copies of the bid bonds it states were received from West Div. Since it found the bonds defective, the Navy concluded that the bids were nonresponsive. This protest followed.

West Div argues that it did submit bid bonds signed by the individual surety. As to IFB No. -6066, West Div claims that, in addition to a bid bond signed only by the principal, it submitted a second bid bond signed only by the

¹There were 10 bids received for IFB No. -6066, and 9 bids for IFB No. -6090.

²In the space for the surety's signature were the words, in cursive, "See Attached." The bond was accompanied by a duly executed affidavit of individual surety and real property liens signed by that surety.

individual surety.' As to IFB No. -6090, West Div insists it submitted a duly executed bid bond signed by the individual surety. West Div has provided copies of the bid bonds it allegedly submitted with its bids and affidavits from an employee of West Div to the effect that he put the bid bonds in the package sent to the Navy.

When required by a solicitation, a bid bond is a material part of a bid which must be furnished with it. A.D. Roe Co., Inc., 54 Comp. Gen. 271 (1974), 74-2 CPD ¶ 194. A bid which does not include the bid bond is properly rejected despite the bidder's assertion, supported by affidavits of its employees, that the bond was included in its bid package. P.W. Parker, Inc., B-190286, Jan. 6, 1978, 78-1 CPD ¶ 12; Roderick Constr., B-193116, Jan. 30, 1979, 79-1 CPD ¶ 69; Washington Patrol Serv., Inc., B-196997, Mar. 25, 1980, 80-1 CPD ¶ 220. In the absence of independent evidence establishing the validity of the bidder's assertion, the bid may not be considered responsive. There is no such evidence here. The only evidence supporting West Div's assertions was completely within its control.

Alternatively, West Div argues that the individual surety's failure to sign the bid bond is not a fatal deficiency because the other documents, specifically the real property liens, bound the surety to the government. But an affidavit of individual surety and a pledge of assets (such as real property liens) serve only one purpose: to assist the contracting officer in determining the financial acceptability of the individual surety, which involves a matter of responsibility, not responsiveness. Burtch Constr., B-240695; B-240696, Nov. 25, 1990, 90-2 CPD ¶ 423; Gene Quigley, Jr., B-241565, Feb. 19, 1991, 70 Comp. Gen. ____, 91-1 CPD ¶ 182. A bid bond is the instrument by which the principal and surety legally bind themselves to the penal sum stated in the bond and for which the pledge of assets is security. When the bid bond is defective, the obligation of the principal and surety has not been established. Accordingly, since the record shows that the bid bonds received by the Navy were defective, the bids were properly found nonresponsive.

The protest is dismissed.



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³West Div did not argue this point until its comments on the agency report. West Div does not explain why it allegedly submitted two bid bonds for one bid.