



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

Decision

Matter of: Sunrise International Group, Inc.

File: B-251956

Date: February 8, 1993

Ray E. Baker for the protester.
Captain Gerald P. Kohns, Department of the Army, for the agency.
Christine F. Bednarz, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly accepted a bid using the bidder's trade name, instead of the formal corporate name, where it was possible to identify the actual bidder with sufficient certainty that the bidder would not be able to avoid the obligations of the bid.

DECISION

Sunrise International Group, Inc. protests the award of a contract to Sheraton Inn Syracuse under invitation for bids (IFB) No. DAKF36-93-B-0004, issued by the Department of the Army, to provide meals and lodging services to the Military Entrance Processing Station, Syracuse, New York.

We dismiss the protest.

The low bidder listed itself as Sheraton Inn Syracuse, incorporated in the state of Delaware. Sunrise alleges that since this name does not appear as a registered corporation in Delaware, the agency should have rejected Sheraton's bid as nonresponsive, because the firm was not a legal entity that could be bound to perform the contract.

The agency has furnished evidence of a New York State Liquor license, health permit, and business certification showing that Sheraton Inn Syracuse is the trade name of First Republic Corporation of America, a Delaware corporation. The agency also notes that the awardee has held the contract for these services under the Sheraton name for the past 7 years. The agency submits that this evidence demonstrates that Sheraton is essentially the same legal entity as First Republic and suffices to bind First Republic to the obligations of the bid.

In general, a contract cannot be awarded to any entity other than the one that submitted the bid. While this rule generally applies in situations where it is unclear from the face of the bid which of two or more legal entities is the bidder, it does not automatically prohibit an award where, as here, a bidder merely uses a trade name instead of its formal corporate name in the bid. Where a trade name is used, but it is possible to identify the actual bidder with sufficient certainty that it would not be able to avoid the obligations of its bid, acceptance of the bid is proper. Coonrod & Assoc., 67 Comp. Gen. 117 (1987), 87-2 CPD ¶ 549; Moore Serv., Inc., B-212054, Dec. 6, 1983, 83-2 CPD ¶ 648. Evidence existing and publicly available at the time of bid opening may be submitted after bid opening and prior to award to establish the bidder's use of the trade name. Id.

The record here sufficiently identifies Sheraton as the same legal entity as First Republic, so that the bid submitted by Sheraton would legally bind First Republic. The offered state and county licenses--evidence existing and publicly available at the time of bid opening--show that Sheraton is simply a trade name for First Republic and does not exist as a separate legal entity. The bid itself identified Sheraton as a Delaware corporation, further evidencing that First Republic was the underlying bidding entity. Finally, the bidder has been doing business with the contracting agency under the Sheraton name for the past 7 years.¹ Under these circumstances, the fact that Sheraton may not have made certain filings with New York State offices, e.g., an Assumed Name Certificate, is irrelevant. See Coonrod & Assoc., supra. The bid is responsive and properly may be accepted for award.


James A. Spangenberg
Assistant General Counsel

¹Contrary to the assertions of the protester, a corporation can carry on business under a name other than its legal name without affecting its legal obligations. See Las Piedras Constr. Corp., B-208555.2, Dec. 27, 1982, 82-2 CPD ¶ 579.