



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

Decision

Matter of: Marco Construction Company, Inc.
File: B-257148
Date: May 5, 1994

DECISION

Marco Construction Company, Inc. protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. F23606-93-B-0003, issued by the Department of the Air Force.

We dismiss the protest because the protester failed to sign the required Certificate of Procurement Integrity. The failure of a bidder to submit a signed certificate when one is required by the solicitation renders the bid nonresponsive. Thus, the protest fails to state a valid legal challenge to the agency's rejection of the protester's bid.

The Certificate of Procurement Integrity requirement, set forth at Federal Acquisition Regulation § 52.203-8, implements the Office of Federal Procurement Policy (OFPP) Act, 41 U.S.C. § 423 (1988 and Supp. IV 1992), a statute which bars agencies from awarding contracts expected to exceed \$100,000 unless a bidder or offeror certifies in writing that neither it nor its employees have any information concerning violations or possible violations of the procurement integrity provisions of the OFPP Act set forth elsewhere in 41 U.S.C. § 423. Shifa Servs., Inc., 70 Comp. Gen. 502 (1991), 91-1 CPD ¶ 483. As a result of the substantial legal obligations imposed by the certification, omission from a bid of a signed Certificate of Procurement Integrity leaves unresolved a bidder's agreement to comply with a material requirement of the IFB; accordingly, a bidder's failure to submit a signed certificate with its bid is a material deficiency requiring that the bid be rejected as nonresponsive.¹ See FAR § 14.404-2(m); Hein-Werner

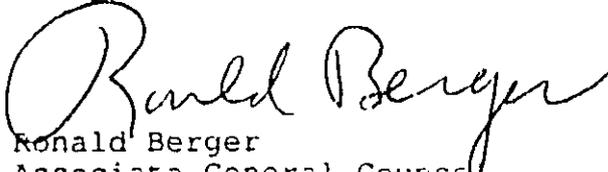
¹Because the certifier's additional obligations are material, we cannot consider the protester's failure to furnish a signed certificate with its bid a minor informality capable of being cured after bid opening; to do so would permit a bidder to decide after bid opening whether to comply with a material term of an IFB, which constrains the integrity of the competitive bidding system by giving

(continued...)

Corp., 71 Comp. Gen. 421 (1992), 92-1 CPD ¶ 484; Mid East Contractors, Inc., 70 Comp. Gen. 393 (1991), 91-1 CPD ¶ 342.

A nonresponsive bid may not be accepted, even if the bid would provide savings to the government, because the public interest in maintaining the integrity of the competitive bidding process outweighs any monetary benefit to be obtained from waiving material bidding deficiencies. Sac & Fox Indus., Ltd., B-231873, Sept. 15, 1988, 88-2 CPD ¶ 250.

The protest is dismissed.


Ronald Berger
Associate General Counsel

¹(...continued)
otherwise successful bidders an opportunity to walk away from a low bid. See Three D. Indus. Maintenance Corp.-- Recon., B-245422.2, Feb 6, 1992, 92-1 CPD ¶ 152.