

Roberts, P.L. II
14582

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-198975

DATE: August 15, 1980

MATTER OF: Lance Security Patrol, Inc. *D LGD 5078*

DIGEST:

Where low bid was not accompanied by bid guarantee as required by invitation for bids, and no regulatory exceptions allowing waiver of noncompliance were applicable, agency properly rejected bid as nonresponsive.

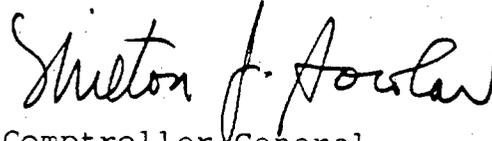
Lance Security Patrol, Inc., *Against* [protests the rejection ~~as~~ nonresponsive ~~of its low bid~~] for guard services under invitation for bids (IFB) No. 2PPB-AWS-19593, *Agc 00011* issued by the General Services Administration (GSA). The basis for rejection was Lance's failure to submit a bid guarantee prior to bid opening as required by the IFB. Lance states that its failure in that respect was inadvertent, and argues that the contracting officer should have the discretion to accept the bid. The protest is without legal merit.

The general rule is that except as otherwise provided in the applicable regulations, a procuring activity must reject as nonresponsive a bid that does not include a required bid guarantee despite the fact that acceptance of the bid would result in a monetary savings to the Government. Federal Procurement Regulations (FPR) § 1-2.404-2(f) (1964 ed.); Kleen-Vu-Maintenance, Inc., B-194054, February 22, 1979, 79-1 CPD 126. The reason therefor is that the waiver of the requirement that a bid bond be submitted with the bid would make it possible for a bidder to decide after opening whether or not to have its bid rejected by the simple expedient of not furnishing the bond. In addition, such waivers would cause undue delays in effecting procurements and also would create inconsistencies in the treatment of bidders as a result of the subjective determinations by different contracting officers with respect to whether a waiver is appropriate in any given instance. See Edward Kocharian & Company, Inc. - request for modification, 58 Comp. Gen. 516, 518 (1979), 79-1 CPD 326; 38 Comp. Gen. 532 (1959).

~~011679~~
113030

The exceptions to the above-stated rule, set forth at FPR § 1-10.103-4, are where only a single bid is received, and where the bid guarantee is received late but the late receipt may be waived under the rules established for the consideration of late bids. Neither of these exceptions applies in the instant case. Therefore, GSA's rejection of Lance's bid was proper. Kleen-Vu-Maintenance, Inc., supra.

The protest is denied.



For The Comptroller General
of the United States