

**DECISION**

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

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**FILE:** B-216733 **DATE:** March 4, 1985  
**MATTER OF:** JDL Construction, Inc.

**DIGEST:**

Protester's bid accompanied by a bid bond indicating bidder was a joint venture properly was rejected as nonresponsive because the bid indicated the bidder was a corporation and therefore the obligation of the surety is unclear.

JDL Construction, Inc. (JDL), protests award to any other bidder under invitation for bids (IFB) No. F04605-84-B-0021, issued by March Air Force Base, California. JDL alleges that its bid was improperly rejected as nonresponsive.

We deny the protest.

Bid opening was on June 21, 1984, and JDL was the apparent low bidder. The contracting officer noted that JDL's bid contained a discrepancy between the bid, which listed JDL as a corporation, and the bid bond, which listed JDL as a joint venture. When questioned about the discrepancy, JDL advised that it was a newly formed corporation. The contracting officer therefore provided JDL the opportunity to submit a corrected bid bond.

On July 10, 1984, JDL submitted a revised bond; however, the block referring to the state of incorporation had been whited out and the state of Washington was typed over the white-out. The contracting officer contacted the surety--Mid Century Insurance Company--about the correction and was advised that the bond should have listed California as the state of incorporation and that no changes had been authorized. The surety also advised that a corrected bond would be forthcoming. When JDL was contacted about the

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discrepancy, it too advised that a new bid bond would be sent. The contracting officer reports that neither JDL nor the surety ever submitted a new bid bond, which resulted in JDL being rejected as nonresponsive. Award was made to the next lowest bidder on September 22, 1984.

JDL essentially argues that the bid bond was not altered, but was whited out to correct a typing error that was made in the bid bond when it was issued. JDL alleges that it repeatedly attempted to submit a proper bid bond in response to the contracting officer's request. However, the Air Force denies receiving a corrected bond. To prove receipt, JDL has included certified return receipts marked July 10 and August 17. JDL states that it is receiving unfair treatment because the contracting officer harbors ill feelings against its company stemming from a prior procurement.

The discrepancy in JDL's bid and bid bond involved the two boxes which indicated the legal status of the bidder. The box on the bid form indicated JDL was a corporation and the box indicating a joint venture was checked on the bid bond. Both the bid and the bid bond showed the name of the entity to be "JDL Construction."

Our Office has previously found bids nonresponsive which named a corporation in the bid and a joint venture in the bid bond. Atlas Contractors, Inc./Norman T. Hardee, a Joint Venture, B-208332, Jan. 19, 1983, 83-1 C.P.D. ¶ 69, and Hoyer Construction Company/K.D. Hoyer, a Joint Venture, B-183096, Mar. 18, 1975, 75-1 C.P.D. ¶ 163.

This rule is prompted by the rule of suretyship that no one incurs a liability to pay the debts or perform the duty of another unless he expressly agrees to be bound. A.D. Roe Company, Incorporated, 54 Comp. Gen. 271 (1974), 74-2 C.P.D. ¶ 194. Here, the bid bond indicated the entity was a joint venture meaning the surety guaranteed the performance of two firms and could look to the resources of two firms for any recovery. However, the bid indicated the bidder was a single entity and therefore the surety's possible recourse would be limited to the assets of one firm. The only legal theory under which it would have been proper for the contracting officer to have allowed the submission of a corrected bond would be that the indication

of a joint venture was a typographical error. Montgomery Elevator Co., B-210782, Apr. 13, 1983, 83-1 C.P.D. ¶ 400 and K-W Construction, Inc., B-194480, June 29, 1979, 79-1 C.P.D. ¶ 475. However, since neither JDL nor the surety submitted a corrected bid bond, although both had reportedly indicated to the contracting officer that a corrected bid bond would be sent, the contracting officer had no alternative but to consider the bid bond as submitted. Federal Acquisition Regulation, 48 C.F.R. § 14.406-3(g)(5) (1984).

The protest is denied.

*Harry R. Van Cleve*  
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General Counsel