



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Trans South Industries, Inc.

File: B-224950

Date: December 19, 1986

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### DIGEST

The failure of a high bidder under a sealed bid timber sale to submit an acceptable bid guarantee required rejection of its bid as nonresponsive.

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### DECISION

Trans South Industries, Inc. protests the rejection of its bid under the Compartment 98 timber sale conducted by the Forest Service, Kitsachie National Forest, Pineville, Louisiana. Trans South's bid was rejected as nonresponsive because its bid guarantee was defective. Trans South argues that it should have been permitted to cure the defect. We deny the protest.

The timber sale prospectus stated that award would be based on sealed bids. The accompanying instructions to bidders required that each bid include a bid guarantee in the form of cash, a bid bond, an irrevocable letter of credit, a certified check, bank draft, cashier's check, or bank money order payable to the Forest Service. Bidders were cautioned that failure to submit an acceptable bid guarantee would require rejection of the bid as nonresponsive unless there were no other acceptable bids.

Trans South submitted the highest of the seven bids received and opened on October 1, 1986. Trans South's bid was rejected as nonresponsive because the bank money order that it had submitted as its bid guarantee had been made payable to the order of the president of Trans South, and not to the Forest Service.

Trans South contends that since the error, which it terms a "technicality," could have been corrected promptly, it should have been permitted to cure the defect. The protester advises that at the time the error in its money order was detected, its representative offered but was denied permission to go to the bank to have the defect corrected.

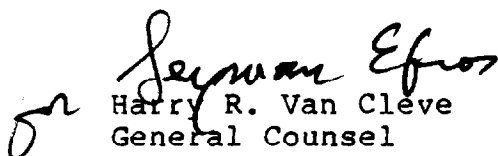
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Generally, where an invitation for bids requires a bid guarantee, that requirement becomes a material part of the invitation, noncompliance with which renders the bid nonresponsive. Nova Group, Inc., B-220626, Jan. 23, 1986, 86-1 CPD ¶ 80. This is because permitting correction of a bid guarantee after bid opening would open the door to manipulation of the competitive bidding system by permitting a bidder to decide after other bids have been exposed whether to attempt to have its bid accepted or rejected.

Trans South's money order was made payable to its president, and had not been endorsed by him to the Forest Service. Trans South thus did not comply with the requirement that the bank money order be made payable to the Forest Service. If the bid officer had, as the protester argues he should have, permitted Trans South's representative to go to the bank to have the error corrected after bid opening, Trans South could have elected to accept award (by curing the defect) or to reject award (by not curing the defect).

The fact that the Forest Service could have realized an additional \$20,000 on the sale if it had permitted Trans South to cure the defect in its bid guarantee does not alter the outcome. The importance of maintaining the integrity of the competitive bidding process outweighs the possibility that the government might realize a monetary gain by allowing a material defect to be corrected. See Abar Ipsen Industries, B-219499.2, Jan. 3, 1986, 86-1 CPD ¶ 7.

The protest is denied.

  
Harry R. Van Cleve  
General Counsel