



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Coonrod & Associates

File: B-228914

Date: December 3, 1987

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### DIGEST

Where corporation submits bid in assumed trade name registered prior to bid opening, official documentation of such registration submitted after bid opening, which existed and was publicly available prior to bid opening, adequately identified corporation as party that would be legally bound by bid; therefore, bid is responsive and award to corporation would be proper.

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### DECISION

Coonrod & Associates, by their agent Priscidon Enterprises, Inc., protests the pending award of a contract to Plano Bridge & Culvert for construction modernization of barracks at Fort Riley, Kansas, under invitation for bids (IFB) No. DACA41-87-B-1042, issued by the United States Army Corps of Engineers. Coonrod contends that Plano's bid should be rejected as nonresponsive, as the firm was not a legal entity that could be bound to perform a contract. We deny the protest.

The low bid was submitted in the name of Plano Bridge & Culvert, Fort Worth, Texas, and was signed by Don L. Hanson, as president. The bid indicated that the bidder was owned or controlled by a parent company, Hanson Construction Company of Washington, Iowa, and gave the parent company's (Hanson Construction's) employer identification number. The bid also indicated that the bidder operated as a firm incorporated under the laws of Iowa. Additionally, a bid bond was submitted in the name of Plano as the principal.

The protester initially complained that Plano is not an existing legal entity incorporated in Iowa, as stated in the bid, and is therefore ineligible to receive the award. The agency stated in its report, however, that Plano's parent company, Hanson Construction, is an Iowa corporation, and that Plano does not exist as a separate legal entity, but is

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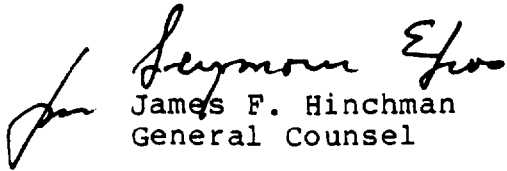
an assumed trade name filed with the Office of the Secretary of the State of Texas on April 5, 1982, for the purpose of registering Hanson Construction's business operation in that state. After receiving this information, Coonrod altered its protest, now maintaining that Plano did not, as required by the state, file with the county in which it does business, and that the bidding entity therefore is nonexistent and cannot be bound to a contract. The protester recognizes that Hanson Construction is an existing Iowa corporation, but argues that award could not properly be made to Hanson because it was not the bidder. Accordingly, the protester maintains that the Plano bid should be rejected as nonresponsive.

The protester correctly argues that in general a contract cannot be awarded to any entity other than the one which submitted the bid. While this rule generally applies in situations where it is not clear from the face of the bid which of two or more legal entities is the bidder, it does not automatically prohibit an award in cases 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 obligation of its bid, acceptance of the bid is proper. Ebsco Interiors, B-205526, Aug. 16, 1982, 82-2 CPD ¶ 130; see also Moore Service, 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. See id; Jack B. Imperiale Fence Co. Inc., B-203261, Oct. 26, 1981, 81-2 CPD ¶ 339.

The record here sufficiently identifies Plano as essentially the same entity as Hanson Construction so that the bid submitted by Plano would legally bind Hanson. Evidence existing at the time of bid opening and publicly available, in the form of the Assumed Name Certificate filed in Texas, indicates that Plano is simply a trade name for Hanson Construction. The Small Business Administration confirmed this, and the fact that Plano is not a separate legal entity, in a September 11, 1987, small business size determination. Moreover, the bid identified the bidder as an Iowa corporation, further indicating that Hanson Construction was the underlying bidding entity. As for the fact that the bid was submitted in the name of Plano, we have recognized that a corporation can carry on business under a name other than its legal name without affecting its legal obligation. See Las Piedras Construction Corp., B-208555.2, Dec. 27, 1982, 82-2 CPD ¶ 579. Under these

circumstances, the fact that Plano may not have made certain filings with Texas state offices is irrelevant. The bid is responsive and properly may be accepted for award.

The protest is denied.

James F. Hinchman  
General Counsel