



Comptroller General
of the United States

Washington, D.C. 20548

144095

Decision

Matter of: Bogue Construction, Inc.

File: B-244303

Date: June 6, 1991

Robin L. Bogue for the protester.

DIGEST

Submission of bid guarantee effective for 30 days after bid opening rather than 60 days as required by the solicitation rendered the guarantee defective, and agency therefore properly rejected the bid as nonresponsive.

DECISION

Bogue Construction Inc. protests the rejection of its bid under invitation for bids (IFB) No. R2-91-23, issued by the Forest Service, Department of Agriculture, for construction of the Buzzard Divide Road. The agency rejected the bid as nonresponsive on the basis that the firm's bid guarantee was for 5 percent of the bid amount rather than the required 20 percent, and was effective for only 30 days after bid opening, rather than the required 60 days.

It is well-established that a bid guarantee is a material part of a bid and therefore must be in accordance with the solicitation's terms to be acceptable. See McLemore Pump, Inc., B-230031, Jan. 27, 1988, 88-1 CPD ¶ 83. Consistent with this general principle, a bid guarantee that is not available to the government for at least the entire required period renders the guarantee defective and the bid therefore nonresponsive. See Kentucky Bridge and Dam, Inc., B-236218, Nov. 2, 1989, 89-2 CPD ¶ 415. Consequently, as Bogue's bid guarantee was not effective for the required period, its bid properly was rejected as nonresponsive. (We thus need not discuss the remaining deficiency).

It is of no consequence that, after bid opening, Bogue submitted a bid guarantee correcting the deficiencies. A bid guarantee deficiency may not be corrected after bid opening; otherwise, a bidder would have the option of accepting or rejecting the award by either correcting or not correcting the deficiency, which is inconsistent with the sealed bidding

system. Drill Constr. Co., Inc., B-239783, June 7, 1990, 90-1
CPD ¶ 538.

Bogue notes that acceptance of its bid notwithstanding the defective bid guarantee would result in a cost saving to the government. However, the public interest in maintaining the integrity of the competitive bidding system outweighs any advantages to the government from waiving the procurement regulations. Hannan Assocs., Inc., B-226180, Feb. 20, 1987, 87-1 CPD ¶ 197.

The protest is dismissed.



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Assistant General Counsel