



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Big River Construction Company

File: B-250961

Date: October 26, 1992

R. W. Miller, Esq., and Weston A. Sechtem, Esq., Miller Law Firm, for the protester.
Catherine M. Evans, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest of agency's rejection of bid as nonresponsive due to defective bid bond is dismissed where power of attorney form attached to the bond did not designate the individual who signed the bond as an attorney-in-fact authorized to bind the surety; bid thus failed to establish surety's ability to be bound under the solicitation.

DECISION

Big River Construction Company protests the rejection of its bid under invitation for bids (IFB) No. DACW45-92-B-0101, issued by the Army Corps of Engineers for work on the Boyer Chute Channel of the Missouri River. The Corps rejected Big River's bid because the surety's power of attorney form attached to the bid bond failed to designate the individual who signed the bond on behalf of the surety as an attorney-in-fact authorized to bind the surety.

We dismiss the protest.

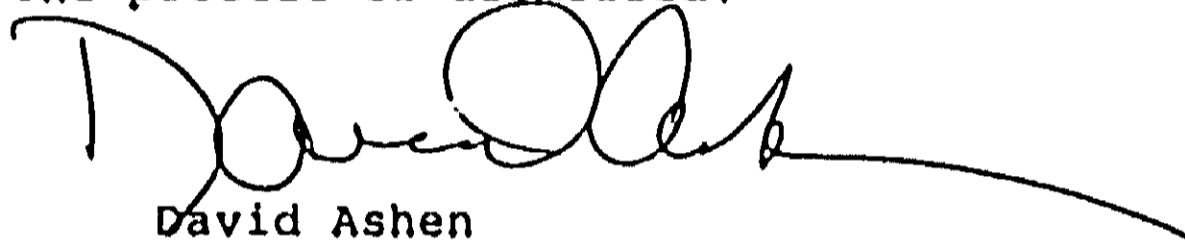
The IFB required the submission of a bid guarantee in the amount of 20 percent of the bid. Big River submitted the low bid. The bid bond submitted with Big River's bid was properly executed, and was signed on behalf of the surety by Shirley R. Ourada as attorney-in-fact. A completed power of attorney form attached to the bond, however, listed a Robert L. Reynoldson as the attorney-in-fact authorized to bind the surety. As the bid thus failed to establish that the individual signing the bid bond was authorized to bind the surety, the Corps rejected the bid as nonresponsive.

Big River contends that its failure to provide a power of attorney form for Ms. Ourada with its bid should be waived as a minor informality because Ms. Ourada's general power of attorney is on file with the Corps; consequently, there was

no question as to Ms. Ourada's authority to bind the surety. Big River concludes that its bid should have been considered responsive.

Big River's argument fails to state a valid basis of protest. It is well established that a bid bond is defective and renders the bid nonresponsive if it is not clear that it will bind the surety. Techno Eng'g & Constr., Inc., B-243932, July 23, 1991, 91-2 CPD ¶ 87. In this regard, responsiveness of a bid--including the ability of the bid guarantee to bind the surety under the IFB--must be evident from the face of the bid documents. See id.; Nova Group, Inc., B-220626, Jan. 23, 1986, 86-1 CPD ¶ 80. Even if the attorney-in-fact who signed Big River's bid bond had actual authority to bind the surety, there was no evidence of this on the face of the bid documents. As the enforceability of the bond against the surety could not be determined from the bid documents themselves, the Corps properly considered the bid bond to be defective, and the bid therefore nonresponsive. See id.

The protest is dismissed.



David Ashen
Acting Assistant General Counsel