



Comptroller General
of the United States

Washington, D.C. 20548

M. Becker

Decision

Matter of: Burch Corporation

File: B-261858

Date: July 18, 1995

DECISION

Burch Corporation protests the rejection of its bid as nonresponsive by the Department of the Army under solicitation No. DABT01-95-B-0008.

The protester submitted a bid in the name of Burch Corporation; its bid bond, however, was in the name of Burco Construction. The Army rejected the bid as nonresponsive. Burch asserts that the rejection was improper because it and Burco are sister companies and that they, along with other related companies, use the same bonding line. Burch insists that the bond was enforceable and that rejection of its bid and award to a higher bidder is inappropriate.

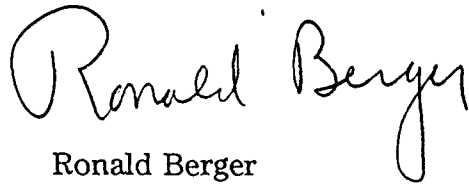
A bid bond is a form of security submitted to assure the government that a successful bidder will not withdraw its bid within the period specified for acceptance and, if required, will execute a written contract and furnish performance and payment bonds. See Federal Acquisition Regulation (FAR) § 28.001. The purpose of a bid guarantee is to secure liability to the government for excess procurement costs in the event the successful bidder defaults by failing to execute the necessary contractual documents or to furnish the required payment and performance bonds. See FAR § 52.228-1(c); Imperial Maintenance, Inc., B-224257, Jan. 8, 1987, 87-1 CPD ¶ 34. The determinative question concerning the acceptability of a bid bond is whether, in the event of a default by the bidder, the contracting agency could be certain that the surety would be bound, based on the information in the possession of the contracting agency at the time of bid opening. The King Co., Inc., B-228489, Oct. 30, 1987, 87-2 CPD ¶ 423.

When the name of the principal on the bid bond differs from the name on the bid itself, the surety on the bond may not be bound in the event the bidder defaults. Therefore, although the name of the bidding entity need not be exactly the same in all of the bid documents, the bid materials or other information reasonably available must show that the differently identified entities are in fact the same concern. Jack B. Imperiale Fence Co., Inc., B-203261, Oct. 26, 1981, 81-2 CPD ¶ 339; see Goss Fire Protection, Inc., B-253036, Aug. 13, 1993, 93-2 CPD ¶ 97.

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Here, it is clear that Burch Corporation and Burco Construction are not the same as the protester admits that the entities are "sister" companies. Therefore, while the protester states that it and several other "related" companies all use the "same bonding line," that does not change the fact that the bidding entity was different from the principal named on the bond. That difference calls into question the surety's liability in the event of a default by Burch Corporation on this procurement, since the face of the bond indicates that for this procurement the surety's obligation was undertaken with respect to Burco Construction, a different albeit related company. Therefore, the agency properly rejected the bid. See MKB Constructors, Inc., B-255098, Jan. 10, 1994, 94-1 CPD ¶ 10.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in dark ink and is positioned above the printed name and title.

Ronald Berger
Associate General Counsel