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Decision

Matter of: Advantix Engineering, Corp.

File: B-424657

Date: September 22, 2026

Ricardo René Gutiérrez Guzmán, Gutiérrez Guzmán Law & Accounting Office, for the protester.

Major Jane K. Riddle, Lieutenant Colonel William T. Wicks, and Robert B. Neill, Esq., Department of the Army, for the agency.

Nathaniel S. Canfield, Esq., and Evan D. Wesser, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In a sealed bid procurement that required the submission of a bid guarantee in the amount of 20 percent of the bid price, the agency properly rejected the protester's bid as nonresponsive, where the bid included a bid guarantee that stated that the penal sum amount was limited to 20 percent of the bid price, but the liability limit of the surety was limited to an amount that was significantly less than 20 percent of the bid price.

DECISION

Advantix Engineering, Corp., a small business of Caguas, Puerto Rico, protests the rejection of its bid as nonresponsive under invitation for bids (IFB)

No. W912LR26BA002, issued by the Department of the Army, National Guard Bureau, for construction services. The protester contends that the agency improperly found its bid to be nonresponsive on the basis of a bid bond defect.

We deny the protest.

BACKGROUND

The agency issued the IFB on May 12, 2026, pursuant to the procedures set forth in Revolutionary Federal Acquisition Regulation (FAR) Overhaul (RFO) subsections 12.201-2 and 36.101-1(a), RFO part 14, and Defense Federal Acquisition

Regulation Supplement (DFARS) RFO parts 214 and 236.¹ Contracting Officer's Statement (COS) at 1, 3; Agency Report (AR) Tab 3, IFB at 00003.² The IFB, which the agency amended four times, was set aside for small business concerns and sought bids for construction of the Puerto Rico Army National Guard Engineering & Housing Maintenance Shops for the Directorate of Public Works at Camp Santiago Joint Training Center in Salinas, Puerto Rico. COS at 1; IFB at 00003.

The IFB contemplated award of a single, fixed-price contract, with award to be made solely on the basis of price to the responsible bidder whose bid conformed to the IFB. IFB at 00003, 00012. Relevant here, the IFB included FAR provision 52.228-1, Bid Guarantee, which required bidders to submit a bid guarantee with their bids in the proper form and the amount of 20 percent of the bid price or \$3 million, whichever was less. *Id.* at 00021.

The agency received nine timely bids, including from the protester. COS at 4. The protester submitted the lowest-priced bid at \$10,437,758, with the next lowest-priced bid at \$17,467,183. AR, Tab 32, Abstract of Bids. After review, the agency concluded that the protester's bid was nonresponsive for two reasons. First, the principal's signature line for the bid did not identify his title, and the bid did not otherwise demonstrate that the signatory had the authority to bind the protester, and therefore the agency concluded that the protester had not made a legally binding offer with its bid. COS at 5; AR, Tab 38, Notification of Rejected Bid. Second, while the protester's bid bond stated a penal sum of 20 percent of the bid price, with the amount not to exceed \$3 million, it further stated that the corporate surety's liability limit was \$600,000. COS at 5; AR, Tab 38, Notification of Rejected Bid; *see also* AR, Tab 35, Protester Bid Bond at 03642-03643. The agency therefore concluded that the protester's bid bond did not meet the requirements of FAR provision 52.228-1, rendering the bid nonresponsive. COS at 5-6; AR, Tab 38, Notification of Rejected Bid.

On July 6, the agency notified the protester that its bid had been rejected as nonresponsive. COS at 6; AR, Tab 38, Notification of Rejected Bid. The protester requested further information and thereafter submitted an agency-level protest to the agency. COS at 6. This protest to our Office followed on July 15.

¹ The Department of Defense, which includes the Department of the Army, adopted the RFO for FAR parts 12, 14, and 36, as well as DFARS parts 214 and 236, *via* Class Deviations 2026-O0028, 2026-O0012, and 2026-O0019, effective February 1, 2026.

² The agency applied uniform pagination, commonly referred to as Bates numbering, to the documents included in the agency report. Our citations to the record correspond with the Bates numbers appearing on the agency report documents.

DISCUSSION

The protester contends that the agency improperly rejected its bid as nonresponsive, arguing that the agency failed to read the bid bond as a whole, instead focusing on the \$600,000 limitation of liability in isolation. Protest at 14-23; Comments at 4-11. The agency responds that it properly rejected the protester's bid as nonresponsive because the bid bond was ambiguous. Memorandum of Law (MOL) at 6-11. For the reasons discussed below, we conclude that the agency properly rejected the protester's bid on the basis of a defective bid bond and deny the protest.³

As a general matter, a bid guarantee ensures that a bidder will, if required, execute a written contract and furnish payment and performance bonds. Where the guarantee is in the form of a bid bond, it secures the liability of the surety to the government if the holder of the bond fails to fulfill these obligations. The guarantee is also available to offset the excess costs of awarding to the next eligible bidder in the event that the bidder awarded the contract fails to fulfill these obligations. The sufficiency of a bid guarantee depends on whether the surety is clearly bound by its terms. When the liability of the surety is not clear, the bond is defective. *IMR Dev. Corp.*, B-408585, Nov. 13, 2013, at 2; *Centex-Great Sw. Corp.*, B-258578, Jan. 17, 1995, at 2.

As the agency points out, the operative facts of this matter are nearly identical to those in our decision in *Armstrong Elevator Company*, B-292864.2, Apr. 13, 2004. See MOL at 7-9 (citing *Armstrong Elevator*). There, the agency issued a solicitation requiring bidders to submit a bid guarantee with their bids in the amount of 20 percent of the bid price or \$3 million, whichever was less. *Armstrong Elevator*, *supra* at 1. The protester's bid, which totaled \$1,750,000, included a bid bond that stated a penal sum of 20 percent, meeting the solicitation's requirement. *Id.* at 2. It also, however, listed a liability limit for the corporate surety of \$44,425, an amount significantly lower than the required \$350,000, or 20 percent of the protester's bid. *Id.* We concluded that, because the liability limit specified was inconsistent with, and for a sum less than, the penal sum required by the solicitation, the protester's bid guarantee was, at best, ambiguous concerning the enforceable amount of the bid guarantee. *Id.* Consequently, the agency properly rejected the protester's bid as nonresponsive. *Id.* at 3.

Here, as in *Armstrong Elevator*, the IFB required bidders to submit a bid guarantee with their bids in the amount of 20 percent of the bid price or \$3 million, whichever was less. IFB at 00021. Like the protester in *Armstrong Elevator*, the protester here submitted a

³ The protester also challenged the agency's conclusion that the bid was nonresponsive because of the absence of information indicating that the bid's signatory had authority to bind the protester. Protest at 6-14. In response, the agency concedes that "a bidder may generally provide documentary evidence of a signatory's pre-existing corporate authority after bid opening." MOL at 5-6. Because we conclude that the agency properly rejected the protester's bid because of the bid bond defect, we need not and do not address this allegation.

bid bond with its bid that stated a penal sum meeting the IFB's requirements, as it stated a penal sum of 20 percent of the bid price or \$3 million. AR, Tab 35, Protester Bid Bond at 03642. Also like the protester's bid bond in *Armstrong Elevator*, the protester's bid bond here further stated a liability limit, which, at \$600,000, was less than the required \$2,087,551.60, or 20 percent of the protester's bid price of \$10,437,758. *Id.* at 03643. Thus, as in *Armstrong Elevator*, the protester's bid guarantee was, at best, ambiguous concerning the enforceable amount of the bid guarantee. Accordingly, the agency here properly rejected the protester's bid as nonresponsive on the basis of a defective bid bond.⁴

The protest is denied.

Edda Emmanuelli Perez
General Counsel

⁴ RFO subsection 14.306-3(j), like FAR subsection 14.404-2(j), requires rejection of a bid where a bid guarantee is required and a bidder fails to furnish the guarantee in accordance with the requirements of the solicitation, except as otherwise provided in part 28. Relevant here, RFO subsection 28.101-4(c)(2) requires waiver of noncompliance where the amount of the bid guarantee submitted is less than required, but is equal to or greater than the difference between the offer price and the next higher acceptable offer. See *also* Class Deviation 2026-O0005 (adopting RFO part 28 and DFARS RFO part 228, effective Feb. 1, 2026); FAR 28.101-4(c)(2) (similarly requiring waiver of the noncompliance). The contracting officer here determined that this waiver provision did not apply, as the \$600,000 amount of the bid guarantee was less than the \$7,029,425 difference between the protester's bid price and the next lowest bid price. COS at 8.