



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Allied Production Management Co., Inc.
File: B-237696
Date: January 5, 1990

DIGEST

1. Contracting agency reasonably found bidder nonresponsive where bidder failed to provide sufficient information to permit a finding that the individual sureties on its bid bond were acceptable.
2. A contracting officer's determination that a small business firm is nonresponsive need not be referred to the Small Business Administration when the determination is based upon the unacceptability of the bidder's bond sureties.

DECISION

Allied Production Management Co., Inc., protests the rejection of its bid under invitation for bids (IFB) No. N62474-88-B-4439, issued by the Department of the Navy for removal of asbestos insulation and piping at the Naval and Marine Corps Reserve Center in Los Angeles, California.

The apparent low bidder on the IFB withdrew from the competition because of a mistake in its bid. The next two lowest bidders were rejected by the contracting officer as nonresponsive. Allied was the fourth-low bidder under the IFB. After an investigation, the contracting officer rejected Allied's bid based on her determination that neither of the individual sureties on its bid bond had demonstrated a net worth equal to or exceeding the penal sum of the bid bond required by the IFB. Allied contends that the documentation it submitted on behalf of its sureties demonstrated each to be of sufficient net worth; in the alternative, Allied contends that the contracting officer's determination should be referred to the Small Business Administration (SBA) for review under the certificate of competency (COC) procedures.

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We deny the protest.

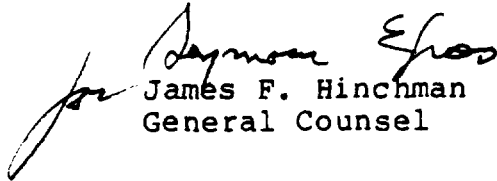
The IFB required each bidder to provide a bid bond; Allied submitted bid bonds listing Richard T. Rowan, and Lee Nixt as individual sureties. Based on Allied's submissions, the contracting officer could not accurately determine the sureties' net worth. The contracting officer requested additional documentation from Allied. Allied submitted further information; however, none of the supplemental documentation contained sufficient information to verify the net worths claimed by the sureties. As a result, the contracting officer concluded that Allied's sureties had not established their financial acceptability and rejected Allied as nonresponsible. This protest followed.

We recently considered the identical issue of whether the Navy properly rejected Allied's bid based on a determination by the contracting officer that Rowan and Nixt, Allied's two sureties, had failed to demonstrate a net worth equal to or exceeding the penal sum of the bond. See Allied Prod. Mgmt. Co., Inc., B-236121.2; B-236899, Dec. 18, 1989, 89-2 CPD ¶ ____; Allied Prod. Mgmt. Co., Inc., B-236227.2, Dec. 11, 1989, 89-2 CPD ¶ ____. This case involves the same documentation and arguments by the protester as in our previous decisions; once again, Allied has failed to supply credible, accurate evidence of either Nixt's or Rowan's financial capacity to serve as sureties for its bid bond. Since the circumstances here are virtually identical to those in our prior cases, we see no basis for objecting to the contracting officer's decision to reject Allied's bid.

Nor do we agree with Allied's argument that the contracting officer's nonresponsibility determination should have been referred to SBA for review under the COC procedures. An evaluation of surety responsibility is based exclusively on the qualifications of the surety rather than the bidder, and there is no indication that Congress intended to bring surety qualifications under the scrutiny of SBA through the Small Business Act. Accordingly, when the determination that a bidder is nonresponsible is based solely on the unacceptability of its sureties, the determination need not

be referred to SBA. Clear-Thru Maintenance, Inc., 61 Comp. Gen. 456 (1982), 82-1 CPD ¶ 581; Cascade Leasing, Inc., B-231848.2, Jan. 10, 1989, 89-1 CPD ¶ 20.

The protest is denied.


James F. Hinchman
General Counsel