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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-220655 **DATE:** January 28, 1986
MATTER OF: Montgomery Elevator Company

DIGEST:

1. Protest that proposed awardee's bid is nonresponsive is denied where the protester's construction of the solicitation's terms is inaccurate, and where the protester does not allege that the proposed awardee took any exception to the requirement in its bid.
2. Where a bidder has listed its name with slight variations on different documents included in its bid, the bid is not defective as long as it can be established that the different names refer to the exact same entity.

Montgomery Elevator Company protests the Department of the Navy's decision to award a contract to American Elevator Company under invitation for bids (IFB) No. N62474-85-B-1713 for the rehabilitation of freight elevators at the Naval Supply Center in Oakland, California. Montgomery contends that American's bid should have been rejected as nonresponsive. We deny the protest.

The protester indicates that a large percentage of the work and cost of the procurement is for new equipment and is covered by the following purchase description in the IFB:

"The equipment shall be the product of a manufacturer regularly engaged in the manufacture and installation of this type of equipment."

Montgomery contends that the purpose of the requirement is to ensure that the freight elevators will be rehabilitated with an integrated system of original-manufacture equipment, so that the performance of the system will be reliable and maintenance of the system will cause minimal

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problems and expense. The protester concludes, therefore, that the above clause must be construed to require that the contractor purchase all of its equipment components from a single manufacturer who regularly is engaged in the manufacture and installation of elevators.

Montgomery asserts that American does not manufacture elevators or major components, nor does it purchase all of its components from a single manufacturer. The protester alleges, therefore, that American will obtain its parts from various sources, and contends that this constitutes a material deviation from the specifications.

We think the clear meaning of the specification at issue is that the equipment may be produced by any number of manufacturers so long as each one is regularly engaged in the manufacture and installation of this type of equipment. In our view, if the Navy had intended the specification to be construed as the protester urges, it would have used language such as "All equipment shall be the product of a single manufacturer. . ." or "the product of the same manufacturer. . . ." Moreover, Montgomery does not allege that American took any exception in its bid to this requirement. Rather, Montgomery essentially questions American's ability and intention to supply equipment that conforms to the specification. This contention involves a matter of bidder responsibility, not responsiveness. See Easco Tools, Inc., et al., B-212783 et al., Jan. 19, 1984, 84-1 CPD ¶ 83. This Office does not review affirmative determinations of a prospective contractor's responsibility unless there is a showing of possible fraud or bad faith on the part of procuring officials or the protester alleges that definitive responsibility criteria were misapplied. Id. Neither exception applies here.

Montgomery also protests that different names are listed in the various bidding documents submitted by American, and that American's bid therefore does not identify a single entity that would be bound in the event of award. The protester contends that American used three different names in the bid forms: "American Elevator Co.," "Westinghouse Corp., dba American Elevator Company," and "Westinghouse Elevator." Montgomery argues that this presents a material irregularity, requiring rejection of the bid.

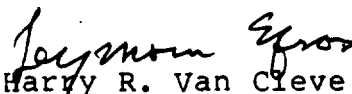
The protester asserts, correctly, that where a bid is submitted in the name of one entity and is accompanied by a bid bond in the name of a different entity, the bid bond is

materially deficient because the obligation of the surety is unclear. See, e.g., Andersen Constr. Co., et al., 63 Comp. Gen. 248 (1984), 84-1 CPD ¶ 279. However, that is not the case here as the principal listed on American's bid bond is "American Elevator Co.," which is exactly the same name that is listed in the "Bidder's Name" space on the front of the bid form.

While the reverse of the bid form does list the bidder as "Westinghouse Corp., dba American Elevator Company," we fail to see how this creates any confusion about the identity of American Elevator Company as the bidder. We have held that the name of the bidding entity need not be exactly the same in all the bid documents so long as it can be established that the differently identified entities are exactly the same. Mark II, Inc., B-203694, Feb. 8, 1982, 82-1 CPD ¶ 104. Here, we think it is clear that "American Elevator Co." and "Westinghouse Corp. dba American Elevator Company" are the same entity and that any doubt in this regard is resolved by the fact that the addresses listed for the firms are the same. See Jack B. Imperiale Fence Co., B-203261, Oct. 26, 1981, 81-2 CPD ¶ 339. Regarding American's alleged use of the name "Westinghouse Elevator," we note that this use appears only in the section of the bid form relating to the identity of the bidder's parent company and does not identify the firm that submitted the bid. Accordingly, there is no discrepancy between the legal entities named in the bid and the bid bond, and the agency therefore correctly found the bid responsive.

Montgomery also contends that the DUNS (Data Universal Numbering Systems) number included in American's bid as that of its parent, Westinghouse Elevator, actually belongs to Westinghouse Electric Corp., and that the parent company listed on the form is therefore incorrect. In response, the Navy points out that this portion of the bid does not relate to the bidder's contractual commitment to perform in accordance with the solicitation. We have held that errors or omissions of this type may be waived or cured after bid opening. See Hild Floor Machine Co., B-217213, Apr. 22, 1985, 85-1 CPD ¶ 456.

The protest is denied.

for 
Harry R. Van Cleave
General Counsel