



## DEPARTMENT OF THE AIR FORCE

HEADQUARTERS AIR FORCE SPACE COMMAND

15 September 1999

MEMORANDUM FOR ALL AFSPC Contracting Offices

FROM: HO AFSPC/LGCP  
150 Vandenberg St Ste 1105  
Peterson AFB CO 809144350

SUBJECT: INFO.LTR 99-17, Release of Bid Bonds on  
Construction Contracts

1. This information letter, INFO LTR 99-17, is directive in nature for all AFSPC contracting offices and is issued under Special Publication System, AFSPCI 64-101, for Specialized Contracting Publications.
2. The attached SAF/AQC letter reminds contracting officers that prompt notification of unsuccessful offerors is imperative so that the unsuccessful offeror(s) can notify their bonding company. The letter also states that the chief of the contracting office may waive the requirements for a bid bond on a case-by-case basis when it determined to be in the best interest of the government.
3. On 9 April 1999 AFSPC/LGC sent an e-mail to all contracting squadron commanders which stated as follows:

A note to all Contracting Squadron Commanders.

As you are aware, recently we have changed our methods on construction contracting from IFB, Sealed Bidding, (where bids are publicly opened) to Request For Proposal (RFP)-Performance Price Trade-Off (PPT), where the contractors do not know the other offerors' proposed price on the project until award of the project. A situation has developed where some construction contractors are concerned that their Bid Bond capacity will be exceeded and they will be precluded from proposing on other construction contracts because it is taking longer for them to know they will not be awarded a construction contract. This can create problems for offerors especially on straddle programs, where we may wait several months for next year funding.

As I'm sure everyone is aware, Bid Bonds were used in sealed bidding to prevent contractors from not signing a construction contract because they found out that they left too much money on

the table in relation to the second low bidder. The FAR does not prohibit the use of Bid Bonds for negotiated construction contracts. However, the intent of the Bid Bond contradicts the language of FAR provision 52.215-1, paragraph (c)(8) which states "proposals may be withdrawn at any time before award".

FAR 28.101-1(c) states, "The chief of the contracting office may waive the requirement to obtain a bid guarantee when a performance bond or a performance and payment bond is required if it is determined that a bid guarantee is not in the best interest of the Government for a specific acquisition." We believe that unnecessarily tying up a contractor's bonding capacity is not in the best interest of the Government, and recommend use of this waiver authority on negotiated construction contracts, especially straddle programs or any other time you expect delays between proposal receipt and contract award.

It is AFSPC/LGC position that each construction contract qualifies as a "specific acquisition" and therefore a class waiver is not necessary.

If you have any questions you may contact Mr. Luther H. Haas, at DSN 692-6928 or e-mail him at [luther.haas@spacecom.af.mil](mailto:luther.haas@spacecom.af.mil).

END OF THE MESSAGE

4. The above referenced e-mail is still the official position of AFSPC/LGC.

5. My POC is Luther H. Haas at DSN 692-6928 or commercial 719-554-6928. You can also contact Mr. Haas by E-Mail at [luther.haas@peterson.af.mil](mailto:luther.haas@peterson.af.mil).

  
MARK W. FAHRENKAMP, Major, USAF  
Chief, Policy/Clearance Branch

Attachment  
SAF/AQC Ltr, 18 Aug 99

cc:  
HQ AFSPC/IGIL  
N-SPJ4P



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

18 AUG 1999

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)

FROM: SAF/AQC  
1060 Air Force Pentagon  
Washington, DC 20330-1060

SUBJECT: Release of Bid Bonds on Construction Contracts

As we increase the use of negotiated construction acquisitions, we need to be sensitive to how this may impact construction contractors. For negotiated acquisitions, FAR 15.503(a)(1) requires prompt notification of unsuccessful offerors when eliminated from the competition. This notification must state the basis for the determination and should be accomplished as expeditiously as possible after proposal receipt. This allows offerors to better plan for future opportunities.

In addition, FAR 28.101-1 authorizes the chief of the contracting office to waive bid bonds on a case-by-case basis when obtaining a bid bond is determined not to be in the government's best interest. This option should be thoroughly considered in each negotiated construction acquisition.

My action officer for this issue is Maj Ed LaBenne, SAF/AQCO, DSN 425-7033 or commercial (703) 588-7033.

  
TIMOTHY A. BEYLAND  
Associate Deputy Assistant  
Secretary (Contracting)  
Assistant Secretary (Acquisition)

cc:  
SAF/LL