

**DECISION**



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

**FILE:**B-212862

**DATE:**September 15, 1983

**MATTER OF:** TECOM Incorporated

**DIGEST:**

A bid is nonresponsive where the solicitation requires a bid guarantee, the protester delivers its bid guarantee a day after bid opening, and the exceptions to a bid guarantee requirement under Defense Acquisition Regulation § 10-102.5 (Defense Acquisition Circular No. 76-20, September 17, 1979) do not apply.

TECOM Incorporated (TECOM) protests the rejection of its bid as nonresponsive for failing to provide a timely bid guarantee as required by invitation for bids (IFB) No. DAKF48-83-B-0072, issued by the Department of the Army. We find that the bid was properly rejected and summarily deny the protest.

TECOM submitted the apparent low bid under the instant IFB. However, TECOM discovered after bid opening that it had inadvertently omitted its bid bond from its bid package, and it delivered its bid bond to the contracting authority 1 day after bid opening.

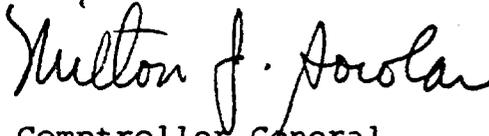
TECOM contends that its failure to provide a timely bid guarantee as required by the IFB should either be waived as a minor informality or irregularity under Defense Acquisition Regulation (DAR) § 2-405 (Defense Acquisition Circular (DAC) No. 76-17, September 1, 1978) or under DAR § 10-102.5 (DAC No. 76-20, September 17, 1979) concerning noncompliance with a bid guarantee requirement.

We have held that a bid guarantee requirement is a material part of an IFB and that, except as provided in applicable regulations, a procuring activity must reject as nonresponsive a bid which does not comply with the requirement. Harris Systems of Texas, Inc; Anti-Pest Co., Inc., B-208670, B-208809, April 13, 1983, 83-1 CPD 392. Further, the failure of a bidder

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to present an adequate bid guarantee at the time of bid opening renders the bid nonresponsive. Colorado Elevator Service, Inc., B-206950.2, May 6, 1982, 82-1 CPD 434. Thus, since a bid guarantee requirement is a material requirement, failure to timely submit a bid bond cannot be waived as a minor informality or irregularity under DAR § 2-405.

DAR § 10-102.5 provides for waiver of the bid guarantee requirement in six circumstances enumerated therein. However, none of the exceptions apply here. Therefore, TECOM's late delivery of a bid bond cannot be waived.

*for*   
Comptroller General  
of the United States