



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Envirotex Technologies, Inc.

File: B-250091

Date: September 17, 1992

Gary C. Hoffman, Esq., for the protester,
Victoria McDermott, Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Bid accompanied by bid bond executed by corporate surety not listed in Treasury Department Circular 570 is nonresponsive.

DECISION

Envirotex Technologies, Inc. protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. DACA05-92-B-0057, issued by the U.S. Army Corps of Engineers for the removal of underground storage tanks.

We dismiss the protest.

The Corps of Engineers rejected Envirotex's low bid as nonresponsive because Old American Insurance Company, the surety on the bid bond submitted with Envirotex's bid, was not listed in the Treasury Department Circular 570, "Companies Holding Certificate of Authenticity as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies."

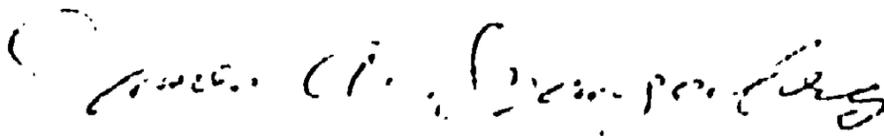
Under Federal Acquisition Regulation § 28.202(a)(1), all corporate sureties offered for bonds furnished with contracts to be performed in the United States must appear on the list contained in Treasury Circular 570. Where, as here, a solicitation provides that failure to provide a bid bond may be a basis for rejection of a bid, a bidder is on notice that not all sureties will be considered adequate and it is incumbent upon a bidder to determine which sureties are acceptable to the government. American Asbestos Abatement, Inc., B-237613, Nov. 29, 1989, 89-2 CPD ¶ 504. As a result, the absence of a bidder's corporate surety from Treasury Circular 570 renders the bid nonresponsive, even if

the solicitation does not specifically mention this requirement. Siska Constr. Co., Inc., B-218428, June 11, 1985, 85-1 CPD ¶ 669.

Here, as conceded by the protester, Envirottox's corporate surety was not listed in Treasury Circular 570 at the time of bid opening. Therefore, Envirottox's bid was properly rejected as nonresponsive.

While the protester states that the failure to secure a listed surety is a minor informality that should not affect a bid's responsiveness, the failure to provide an acceptable surety may not be waived or excused as a minor irregularity. See General Coms. & Elecs., Inc., B-197471, Aug. 12, 1980, 80-2 CPD ¶ 103.

The protest is dismissed.


James A. Spangenberg
Assistant General Counsel