



Comptroller General  
of the United States

442176

Washington, D.C. 20548

# Decision

**Matter of:** GASPRO  
**File:** B-257455  
**Date:** June 17, 1994

## DECISION

GASPRO protests the rejection of its bid by the General Services Administration (GSA) under Solicitation No. TFTC-94-LF-683K, for aviators breathing oxygen.

We dismiss the protest.

This solicitation, conducted under sealed bid procedures, contained in full text both the Certificate of Procurement Integrity and the Certificate of Procurement Integrity--Modification clauses, set forth in Federal Acquisition Regulation (FAR) §§ 52.203-8 and 52.203-9, respectively, as required by FAR § 3.104-10. In its bid, GASPRO completed the procurement integrity certificate for contract modifications, FAR § 52.203-9, but not the certificate required to be submitted with the bid, FAR § 52.203-8. Thus, GASPRO's bid was rejected as nonresponsive.

GASPRO protests that it interpreted the Certificate of Procurement Integrity--Modification as superseding the Certificate of Procurement Integrity, so it believed that there was no need to execute the Certificate of Procurement Integrity as well the Certificate of Procurement Integrity--Modification, and since it executed its bid, its bid should not have been rejected as nonresponsive.

The text of the Certificate of Procurement Integrity, FAR § 52.203-8, informs bidder that the signed and completed certificate must be submitted with the bid, and warns that [f]ailure of a bidder to submit the signed certificate with its bid shall render the bid nonresponsive." The text of the procurement integrity clause for contract modifications, as set forth in FAR § 52.203-9, provides that the bidder agrees to execute the procurement integrity certificate for modifications "when requested by the [c]ontracting [o]fficer in connection with the execution of any modification of this contract." Thus, the protester's interpretation that the certificate for contract modifications superseded the certificate to be submitted with the bid was unreasonable.

Nor is the premature execution of the certificate for contract modifications a substitute for a properly executed Certificate of Procurement Integrity submitted with the bid, since the text of the certificate applicable to contract modifications clearly states that the certificate applies not to the submitted bid, but to a modification of a resulting contract (when requested by the agency), and the modification certificate itself asks for the signature of the individual responsible for the modification proposal, not the bid. Turley Constr. Co., Inc., B-255872, Feb. 1, 1994, 94-1 CPD ¶ 60. Since the certification requirement imposes substantial legal obligations and is thus a material solicitation term and a matter of responsiveness, a bid that does not contain a properly executed certificate must be rejected as nonresponsive because there is otherwise doubt whether the bidder has committed to the substantial legal obligations imposed in the certificate. Id. The fact that the bidder executed its bid (or the wrong certificate) is not sufficient to unequivocally commit the bidder to the substantial legal obligations imposed by the certificate, given that the certificate requires a separate signature to bind the individual responsible for preparing the bid. Id.; Mid-East Contractors, Inc., 70 Comp. Gen. 383 (1991), 91-1 CPD ¶ 342.

  
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