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**DECISION**



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

**FILE:** B-197471

**DATE:** August 12, 1980

**MATTER OF:** General Communications & Electronics,  
Inc.

**DIGEST:**

[Protest Against Bid Rejection]

Bid is nonresponsive and not for consideration where bidder's corporate surety was not listed in Treasury Circular 570 since failure of bid to provide approved surety may not be waived or excused.

General Communications & Electronics, Inc. (GCE), has protested the rejection of its bid under invitation for bids (IFB) No. 621-2-79, the second step of a two-step procurement for a replacement telephone system for the Veterans Administration Medical Center (VAMC), Mountain Home, Tennessee. The contract was awarded to Universal Communications, Inc.

GCE's bid was determined to be nonresponsive because the corporate surety on its bid bond was not listed in Treasury Department Circular 570, entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies." The contracting officer is charged with ensuring that corporate sureties appear on the list for a bond in connection with the procurement of supplies or services, including construction. Veterans Administration Procurement Regulations (VAPR) § 8-10.202 (Change 186, February 21, 1978).

GCE indicates that it was unaware that its proposed bonding company was unacceptable to the VAMC and offered to substitute a bid bond signed by an approved surety upon award of the contract. GCE subsequently informed this Office that it was accepted as a client of a listed surety.

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It is incumbent upon the competitor to determine which sureties are acceptable to the Government. The IFB put bidders on notice that not every surety will be considered acceptable. In this regard, the solicitation states that "failure to furnish the bid guarantee in proper form and amount \* \* \* may be cause for rejection of the bid." Further, the instructions on Standard Form 24, "BID BOND," executed by GCE and its corporate surety advises that corporate sureties "must [appear] on the Treasury Department's list of approved sureties \* \* \*." Additional references to Circular 570 appear in both the Federal Procurement Regulations (FPR) § 1-10.202 (1964 ed. amend. 184) and in VAPR § 8-10.202. Potential bidders are told where to obtain a copy of the circular in paragraph (d) of FPR § 1-10.202. Since GCE failed to ascertain the nonacceptability of its surety which resulted in furnishing a bid bond from an unacceptable surety, the bid is nonresponsive.

This conclusion is based on the rule that failure to provide an adequate bid guarantee will render a bid nonresponsive and that such failure may not be waived or excused except in particular circumstances not applicable here. In similar situations where the corporate surety provided by the bidder was not listed in Circular 570, bids were held to be nonresponsive because the bidders had not provided an adequate bid guarantee. See Alpha Sigma Investment Corp., B-194629.2, May 17, 1979, 79-1 CPD 360; S.T.C. Construction Company, B-194980, July 27, 1979, 79-2 CPD 60; FPR § 1-10.103-4 (1964 ed. amend. 200). Further, GCE's substitution of an approved surety after bid opening and award may not be considered because bid guarantees must be established with the bid. A.D. Roe Company, Inc., 54 Comp. Gen. 271 (1974), 74-2 CPD 194.

The contracting officer has also indicated that the GCE bid was nonresponsive because GCE submitted a "Standard Maintenance Agreement" and an equipment purchase agreement with its bid which allegedly contradicted VAMC requirements. Since the requirement of bid bond acceptability is dispositive of the protest, we need not consider the additional grounds relied upon by the contracting officer in finding GCE's bid nonresponsive.

Accordingly, the protest is denied.

*Milton J. Jordan*  
For The Comptroller General  
of the United States



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

B-197471

August 12, 1980

The Honorable Howard H. Baker, Jr.  
United States Senate

Dear Senator Baker:

We refer to your interest in the protest of General Communications & Electronics, Inc., concerning the award of a contract under solicitation No. 621-2-79 issued by the Veterans Administration Medical Center, Mountain Home, Tennessee.

By decision of today, copy enclosed, we have denied the protest.

Sincerely yours,

*Milton J. Fowler*  
For The Comptroller General  
of the United States

Enclosure