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Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** I T Roads, Inc.

**File:** B-244357

**Date:** June 20, 1991

Jack L. Young for the protester.  
Catherine M. Evans, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

### DIGEST

1. Failure of bid to include completed certificate of procurement integrity is a material deficiency in the bid requiring that it be rejected as nonresponsive.
2. Protest that rejection of bid as nonresponsive was improper because protester's failure to complete certificate of procurement integrity was caused by agency's erroneous oral advice is denied; protester was on constructive notice that its bid would be considered nonresponsive because regulation to that effect is published in the Federal Register, and bidder relies on conflicting oral advice of contracting personnel at its own risk.

### DECISION

I T Roads, Inc. (ITR) protests the rejection of its bid under invitation for bids (IFB) No. R6-4-91-10, issued by the Department of Agriculture, Forest Service, for construction of a timber sale road. The agency determined ITR's bid non-responsive for failure to include a completed certificate of procurement integrity. ITR asserts that the rejection was improper because its failure to complete the certificate before bid opening was due to the advice of agency contracting personnel.

We dismiss the protest.


Section K of the IFB contained various representations to be completed by the bidder, including the certificate of procurement integrity at Federal Acquisition Regulation (FAR) § 52.203-8, required by the Office of Federal Procurement Policy (OFPP) Act, 41 U.S.C.A. § 423(e)(1) (West Supp. 1990). ITR's president, Mr. Young, submitted ITR's bid on the morning of May 13, the bid opening date, without having filled out section K. Upon realizing his omission an hour later,

Mr. Young telephoned the contracting office prior to the bid opening time to inquire whether he needed to complete section K before bid opening, and allegedly was told that bidders have completed section K after bid opening. Based on this information, Mr. Young decided not to go to the contracting office to complete section K even though he "still had plenty of time" to do so. Later that day, Mr. Young telephoned the contracting office again to determine the outcome of the bidding, and was told that his was the apparent low b.d. On May 24, Mr. Young was verbally informed that ITR's bid was rejected because it did not contain a completed certificate of procurement integrity.

A responsive bid is one that unequivocally offers to provide the exact thing called for in the IFB, such that acceptance of the bid will bind the contractor in accordance with all the IFB's material terms and conditions. Mid-East Contractors, Inc., B-242435, Mar. 29, 1991, 70 Comp. Gen. \_\_\_, 91-1 CPD ¶ 342. The procurement integrity certification requirement is such a material term because it imposes substantial legal duties on the bidder, and without completion of the certificate, the bidder's commitment to the obligations is unclear. Id. Accordingly, failure to complete the certificate is a material deficiency requiring that the bid be rejected as nonresponsive. Id.; Federal Acquisition Regulation (FAR) § 14.404-2(m).

ITR does not allege that its bid is responsive notwithstanding its lack of a completed certificate. Rather, ITR contends that the agency's rejection of its bid was improper because it was the agency's erroneous advice that caused it not to visit the contracting office to complete the certificate before bid opening. This argument is without merit. ITR was on notice that its bid would be rejected if it did not contain a completed certificate because FAR § 52.203-8(c)(3), which was included in the IFB, so provides. In addition, FAR § 14.404(2)(m) requires rejection of any bid that does not contain a certificate of procurement integrity; ITR was on constructive notice of this regulation, notwithstanding the agency employee's representation to the contrary, because it is published in the Federal Register and in the Code of Federal Regulations. See Questek, Inc., B-232290, Aug. 19, 1988, 88-2 CPD ¶ 166. In any event, a bidder relies on oral advice of contracting agency personnel at its own risk. Id.

Based on the foregoing, we conclude that the facts as set forth by ITR do not establish a valid basis for protest; accordingly, the protest is dismissed. See 4 C.F.R. § 21.3(m) (1991).



John M. Melody  
Assistant General Counsel