

**DECISION**

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

FILE: B-186788

DATE: July 23, 1976

MATTER OF: Tate Engineering, Inc.

**DIGEST:**

Since conclusive authority to decide small business size status of bidder is vested by statute in SBA, our Office is precluded from considering protests involving bidder's size status.

Tate Engineering, Inc. (Tate) protests the award of a contract under invitation for bids N60921-76-B-0113, a total small business set-aside, issued by the Naval Surface Weapons Center, White Oak, Maryland. Tate maintains that the successful bidder, York-Shipley Inc., misrepresented itself as being a small business and should not have received an award.

Bids were opened on April 30, 1976, and award was made on May 17, 1976. Tate protested York-Shipley's size status to the contracting officer on May 25, 1976.

The issue raised by Tate concerns the size status of York-Shipley. Under 15 U.S.C. § 637(b)(6) (1970), conclusive authority to determine the size status of bidders rests with the Small Business Administration. Consequently, our Office is precluded from considering the matter. World Contractors, Inc., B-185891, March 25, 1976, 76-1 CPD 198.

In view of this, we are closing our file on the matter without further action.

Additionally, we note that Tate's size protest was filed 17 days after bid opening. Under Armed Services Procurement Regulation § 1-703(b)(1) (1975 ed.) any protest involving the small business size status of a bidder should be made in writing to the contracting officer no later than 5 working days after bid opening.

*Milton Fowler*

for Paul G. Dembling  
General Counsel