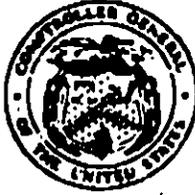


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J. N. [unclear]
Proc #

DECISION



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

FILE: B-187567

DATE: January 31, 1977

MATTER OF: Gibraltar Industries, Inc.

DIGEST:

Protest directed primarily against small business size status of awardee is not for consideration by General Accounting Office since conclusive authority to decide size status of a concern is vested by law in Small Business Administration

Gibraltar Industries, Inc. (Gibraltar) protests the award of a contract to Cherokee Industries, Inc. (Cherokee), under invitation for bids (IFB) No. DSA100-76-B-1192, issued by the Defense Personnel Support Center, Defense Logistics Agency (DLA), Philadelphia, Pennsylvania. Gibraltar contends generally that Cherokee is not the low responsive, responsible bidder and alleges specifically that Cherokee is a large business concern and ineligible for award because the solicitation was a total small business set-aside.

DLA advises that it found Cherokee to be in line for award as a responsive, responsible bidder and that award has been made to Cherokee.

DLA further advises that Gibraltar filed a size protest with the Atlanta Regional Office of the Small Business Administration (SBA), which considered Gibraltar's various contentions as to why Cherokee should be considered a large business, that by letter of October 27, 1976, SBA advised Gibraltar that it had determined Cherokee to be a small business for this procurement and that the SBA Size Appeals Board affirmed that determination on December 15, 1976.

Under 15 U.S.C. § 637(b)(6) (1970), the SBA is empowered to conclusively determine matters of small business size status for Federal procurement purposes, with the result that decisions of the SBA and its Size Appeals Board are not subject to review by this Office. Pacific American Airlines, B-187504, B-187505, October 13, 1976, 76-2 CPD 330; Merritt Enterprises, Inc., et al., B-186412, June 16, 1976, 76-1 CPD 388; Limpio Industries, B-187255, September 30, 1976, 76-2 CPD 301.

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Accordingly, and since Gibraltar has offered no substantiation of its general allegation that Cherokee is not a responsive, responsible bidder, the protest is dismissed.

Paul G. Dembling
Paul G. Dembling
General Counsel