

DOCUMENT RESUME

03339 - [A2433563]

[Protest against Proposed Award of Contract]. B-189912. August 29, 1977. 2 pp.

Decision re: Gillette Industries, Inc.; by Milton Socolar (for Paul G. Dembling, General Counsel).

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law II.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Peth Page Industries, Inc.; Department of Defense: Defense Personnel Support Center, Philadelphia, PA.

Authority: 54 Comp. Gen. 66. 54 Comp. Gen. 499. 54 Comp. Gen. 715.

The protester objected to a proposed contract award, alleging that the proposed awardee was not a responsible bidder. The protest was dismissed since it involved a challenge to the affirmative determination of responsibility, which was not a matter for review by CAO except in circumstances not present in this case. (Author/SC)

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DECISION



R. Berger
Page II

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

FILE: B-189912

DATE: August 29, 1977

MATTER OF: Gillette Industries, Inc.

DIGEST:

Protest that proposed award will be made to nonresponsible bidder is dismissed since it involves challenge to affirmative determination of responsibility which is not matter for review by GAO except in circumstances not present here.

Gillette Industries, Inc. (Gillette) protest the proposed contract award to Beth Page Industries, Inc. (BPI) under solicitation No. DSA100-77-R-0936, issued by the Defense Personnel Support Center, Philadelphia, Pennsylvania.

Gillette alleges that BPI is not a responsible bidder because it lacks adequate facilities, production equipment, work force and financial capability to perform, that BPI has engaged in "collusive bidding" practices, and that BPI "has or anticipates to violate the Buy American Certificate included in * * * the solicitation."

The determination of a potential contractor's responsibility is within the contracting officer's discretion, and this Office does not review affirmative determinations of responsibility unless fraud is alleged on the part of the contracting officer or the solicitation contains definitive responsibility criteria which allegedly have not been applied. See Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Data Test Corporation, 54 Comp. Gen. 499 (1974), 75-2 CPD 365, affirmed 54 Comp. Gen. 715 (1975), 75-1 CPD 138. Since the protest is based essentially on what must be the contracting officer's subjective judgment, rather than any allegation of fraud or noncompliance with definitive responsibility criteria, we will not consider the matter.

B-189912

Accordingly, Gillette's protest is dismissed.

for Milton J. Aveslan
Paul G. Dembling
General Counsel