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DECISION



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

[Protest Alleging IFB Utilized Wrong Small Business Size Standard]

FILE: B-198542

DATE: May 22, 1980

MATTER OF: SMI/New York, Division of Caelter Industries, Inc.

DIGEST:

Decision of SBA Size Appeals Board concerning proper Standard Industrial Classification (SIC) to be utilized in procurement is conclusive on our Office and, therefore, protest regarding SIC is dismissed.

SMI/New York, Division of Caelter Industries, Inc. (SMI), has protested the award of a contract to any other firm under invitation for bids (IFB) No. DLA700-80-B-0175 issued by the Defense Logistics Agency (DLA).

SMI contends that the IFB utilized the wrong small business size standard, Standard Industrial Classification (SIC) 3711, which permits 1,000 employees. SMI argues that the correct standard should be SIC 3531 (750 employees) and contends that the low bidder has more than 750 employees.

SMI protested the question of the proper SIC to the Size Appeals Board of the Small Business Administration (SBA). On April 28, 1980, the SBA Size Appeals Board found that DLA had utilized the proper SIC and that 1,000 or fewer employees were permissible.

Under SBA regulations, the initial determination of the appropriate classification of a product or service being procured shall be made by the contracting officer with the right of appeal to the SBA's Size Appeals Board. 13 C.F.R. §§ 121.3-8 and 121.3-6 (1979). The SBA's determination is conclusive on such matters and, therefore, our Office declines to consider such issues. Kappa Systems, Inc., B-183036, May 20, 1975, 75-1 CPD 305.

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Because DLA has advised our Office that it proposes to award to the low bidder, Oshkosh Truck Corporation, it is unnecessary to discuss SMI's contentions concerning the second low bidder and SMI's request for a conference is denied.

The protest is dismissed.

Harry R. Van Cleave
for Milton J. Socolar
General Counsel