

18812 <sup>Burger</sup> PLM



**DECISION**

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

FILE: B-203899

DATE: July 14, 1981

MATTER OF: Vanguard Industrial Corporation

**DIGEST:**

1. Protest that award should not be made to firm because firm did not meet obligations under prior contract is not reviewed by GAO since it involves challenge to affirmative determination of responsibility, which GAO does not consider in absence of showing of fraud or of allegation that definitive responsibility criteria in solicitation were misapplied.
2. Protest concerning small business size status is not subject to review by GAO since by law it is matter for decision by Small Business Administration.

Vanguard Industrial Corporation protests the award of a contract by the General Services Administration under solicitation No. GSO-4B-81-680 to Parking Systems of America (PSA). Vanguard contends that PSA, the low bidder, should not receive the award because on a previous contract, PSA did not meet its contractual obligations to maintain liability insurance and because PSA may not be a small business.

The first allegation relates to PSA's responsibility as a prospective contractor. This Office does not review protests of affirmative determinations of responsibility unless fraud on the part of procuring officials is alleged or the solicitation contains definitive responsibility criteria which allegedly have been misapplied. Bowman Enterprises, Inc., B-194015, February 16, 1979, 79-1 CPD 121; Alco Tool and Management, Inc., B-200422, October 8, 1980, 80-2 CPD 260. Neither exception is applicable here.

*[Protest of GSA Contract Award]*

~~217577~~

115791

In regard to PSA's size status, the Small Business Administration is empowered to conclusively determine matters of small business size status for Federal procurement. This Office, therefore, does not consider such complaints. Versatile Services, Inc., B-195894, September 24, 1979, 79-2 CPD 219.

Accordingly, the protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel