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DECISION

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

FILE: B-208026 DATE: August 18, 1982

MATTER OF: Bradford Dyeing Association, Inc.

DIGEST:

1. Protest after bid opening that preference should not be given for performance of contract in a labor surplus area is untimely, because that fact was apparent from solicitation and apparent alleged solicitation defects must be filed prior to bid opening.

2. Protest that awardee will be unable to perform in labor surplus area challenges affirmative responsibility determination which GAO will not consider.

Bradford Dyeing Association, Inc. (Bradford), protests the award of a contract to River Textile Printers, Inc. (River Textile), for finishing cloth under invitation for bids No. DLA100-82-B-0665, issued by the Defense Personnel Supply Center, Defense Logistics Agency.

The solicitation provided that a firm that agreed to perform the contract in a labor surplus area would receive a preference in the evaluation of its bid. River Textile agreed to perform in a labor surplus area and with the preference is the low bidder. Bradford argues that the labor cost is insignificant in relation to the entire contract price, and that River Textile's bid should not be evaluated with the preference. Eliminating the preference would result in Bradford becoming the low bidder.

We dismiss the protest.

To the extent that Bradford is arguing that there should have been no preference for labor surplus area performance, the protest is untimely. Section 21.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1982), requires protests based on alleged apparent solicitation improprieties to be filed prior

to bid opening. The preference for labor surplus area performance was obvious from the solicitation, yet the protest was not filed until after bid opening.

To the extent that Bradford is arguing that River Textile will not perform in a labor surplus area, its protest challenges the affirmative determination of River Textile's responsibility, which we generally will not review. Lou Ana Foods, Inc. (B-205573, May 12, 1982), 61 Comp. Gen. _____, 82-1 CPD 484.

Harry R. Van Cleve
Acting General Counsel