

DECISION

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

FILE: B-209283

DATE: November 1, 1982

MATTER OF: Marine and Industrial Insulators, Inc.

DIGEST:

1. Protest that low bidder may not be certified by certain agencies overseeing safety conditions is a protest against an affirmative determination of responsibility which GAO does not review except in circumstances not applicable here.
2. Protest challenging low bidder's small business size status is dismissed since the Small Business Administration is empowered to make conclusive determinations on matters of small business size status.

Marine and Industrial Insulators, Inc. (Marine), protests against the award of a contract to General Marine Industries (GMI) under solicitation No. DTCG25-82-B-0035, issued by the United States Coast Guard (Coast Guard), Department of Transportation.

Marine protests that GMI may not be certified by the Occupational Safety and Health Administration, the Environmental Protection Agency, and the National Institute of Occupational Safety and Health. The Coast Guard has informally advised us that the solicitation did not require such certifications. Marine also protests GMI's status as a small business bidder.

The protest is dismissed.

The question of whether GMI has been certified by agencies overseeing safety conditions involves a matter of bidder responsibility. Our Office does not review a protest against an affirmative determination of responsibility absent a showing of fraud or bad faith on the part of the procuring officials or an allegation that definitive responsibility criteria in the solicitation have not been met. World Wide Diesel, Inc., B-205599, May 6, 1982, 82-1 CPD 433. Neither exception appears to exist here.

Regarding GMI's status as a small business bidder, under 15 U.S.C. §637(b)(6) (1976), the Small Business Administration has the authority to make conclusive

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determinations on matters of small business size status. Our Office, therefore, does not review size status protests. Transcon Associates Inc., B-204991, April 20, 1982, 82-1 CPD 361.

Ordinarily, we request a report from the procuring agency upon receipt of a protest and withhold our decision pending receipt and review of the report. See 4 C.F.R. §21.3 (1982). However, where, as here, it is clear from the protester's initial submission that the protest involves matters which we do not review on the merits, we dismiss the matter without obtaining a report. Warfield and Sanford, Inc., B-206929, April 20, 1982, 82-1 CPD 365.

Harry R. Van Cleve
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