

**DECISION**



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

**FILE:** B-208757.2

**DATE:** June 8, 1983

**MATTER OF:** Kendall G. Peterson

**DIGEST:**

GAO role in protest concerning regular dealer status under Walsh-Healey Act is limited to considering whether contracting officer complied with procedural requirements.

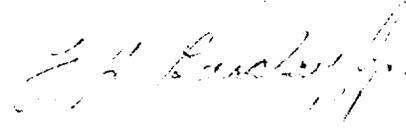
Kendall G. Peterson (Peterson), a small business, protests the rejection of its bid under invitation for bids (IFB) No. N00228-82-B-7526 issued by the Naval Supply Center, Oakland, California. We dismiss the protest.

The contracting officer rejected Peterson's bid because he determined Peterson was ineligible under the Walsh-Healey Act, 41 U.S.C. § 35, et seq. (1976). Specifically, after a preaward survey, the contracting officer determined that, notwithstanding Peterson's self certification to the contrary, Peterson was not a "regular dealer" of the items being procured. The contracting officer forwarded the ineligibility determination to the Small Business Administration (SBA) as provided by Defense Acquisition Regulation (DAR) § 12-604(b)(1)(iii) (Defense Acquisition Circular (DAC) No. 76-22, February 22, 1980). At the same time, the contracting officer, with the concurrence of the chief of the contracting office, decided that the procurement was urgent and that an award should be made to the next low bidder without waiting for an SBA ruling. The contract review board concurred in the award. The letter forwarding the ineligibility determination to SBA contained notice of the award as provided by DAR § 12-604(b)(4) (DAC No. 76-22, February 22, 1980). Because an award had been made and the contracting officer indicated he would not disturb the award if SBA found Peterson to be eligible, SBA declined to review the ineligibility determination.

Peterson protests that it should not have been ruled ineligible under the Walsh-Healey Act. That protest is dismissed. As we indicated in Alabama Metal Products Inc., B-208757, September 8, 1982, 82-2 CPD 216, in response to a

protest that Peterson was not a manufacturer or regular dealer under the Walsh-Healey Act, we do not consider the legal status (manufacturer/regular dealer) of firms under the act, since this is delegated by law to the contracting officer subject to review by SBA (where a small business is involved) and the Secretary of Labor. Our role in protests concerning the status of a bidder as a regular dealer under the Walsh-Healey Act is limited to considering whether the contracting officer has complied with procedural requirements. Bob McDorman Chevrolet, Inc. and Jack Roach Cadillac, B-200846, et al., March 13, 1981, 81-1 CPD 194. In this respect, the record indicates that the contracting officer followed the requirements of DAR §§ 12-804(b)(1)(iii) and 12-604(b)(4), supra, in forwarding the ineligibility determination to SBA and providing notice of the award made.

Protest dismissed.

*for*   
Harry R. Van Cleve  
Acting General Counsel