

DECISION

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

27023

FILE: B-213646

DATE: December 14, 1983

MATTER OF: Marathon Enterprises, Inc.

DIGEST:

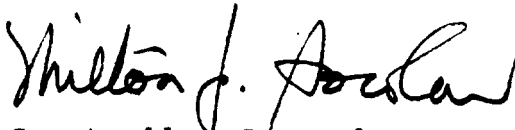
1. GAO will not review an affirmative determination of responsibility absent an allegation that definitive responsibility criteria were misapplied or of fraud or bad faith on the part of contracting officials; a contract award necessarily indicates contracting officer finding of awardee responsibility.
2. Information regarding affiliation of bidder with other firms goes to question of bidder responsibility, not to question of responsiveness of bidder's bid; information may be supplied after bid opening, if not contained in bid, as part of responsibility consideration.

Marathon Enterprises, Inc. (Marathon), protests an award to Agerg, the low bidder under Naval Facilities Engineering Command (Atlantic Division) invitation for bids No. N62470-81-B-1465. Marathon contends that Agerg is controlled by two other companies, a fact that was omitted by Agerg on the Standard Form 19-B, "Representations and Certifications" of its bid, and that these companies are experiencing performance difficulties on other contracts.

As regards Marathon's challenge to Agerg's responsibility, our Office does not review a contracting officer's determination that a prospective contractor is responsible unless the solicitation contains definitive responsibility criteria which allegedly have not been applied or unless fraud or bad faith on the part of the contracting officials is alleged. Warfield & Sanford, Inc., B-206929, April 20, 1982, 82-1 CPD 365. Neither of these exceptions has been alleged. A contract award necessarily indicates a contracting officer finding of awardee responsibility. B. H. Aircraft Company, Inc., B-210798, April 1, 1983, 83-1 CPD 344. Thus, we dismiss this portion of the protest.

027433

Second, as regards the failure of Agerg to supply information regarding affiliation with other firms in the "Representations and Certifications" portion of the Agerg bid, such information does not affect the responsiveness of the bid, but rather the responsibility of the bidder. Since responsibility determinations are made prior to award, the information may be submitted and considered after bid opening. Shelby-Skipwith, Inc., B-193676, May 11, 1979, 79-1 CPD 336. The second portion of the protest, therefore, is denied.

for 
Comptroller General
of the United States