

DECISION

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

FILE: B-222012 **DATE:** March 11, 1986
MATTER OF: Gladix Corporation

DIGEST:

Protest against rejection of bid for failure to acknowledge an amendment will not be considered since the firm's bid otherwise is nonresponsive, so that it is not eligible for award in the procurement irrespective of the protest's merits.

Gladix Corporation protests the rejection of its bid under Defense Logistics Agency (DLA) solicitation No. DLA100-86-B-0107 for coats. DLA rejected the bid because Gladix failed to acknowledge an amendment to the invitation; Gladix complains that it did not receive the amendment until after the bid opening date.

We dismiss the protest pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.3(f) (1985).

The invitation was a combined small business/labor surplus area set-aside. See Department of Defense Federal Acquisition Regulation Supplement § 19.502-70 (1985). DLA has furnished to our Office a copy of Gladix's bid, which shows that Gladix, although indicating in its bid that it was a small business concern, also certified that not all supplies (end items) to be furnished would be manufactured or produced by domestic small businesses. Where a bid on a small business set-aside does not establish that the bidder is offering supplies manufactured or produced by small business concerns, the bid is nonresponsive and must be rejected. ATD-American Co., B-217920, Jan. 23, 1985, 85-1 C.P.D. ¶ 91. Otherwise, the bidder, if awarded the contract, would be free to provide supplies from either small or large business manufacturers as its private business interests might dictate, defeating the intent of the set-aside. Id.

Gladix's bid therefore would have to be rejected as nonresponsive irrespective of the merits of the firm's

034784

protest. Since Gladix thus is not eligible for award in the procurement, we will not consider the protest. 4 C.F.R. § 21.0(a).



Robert M. Strong
Deputy Associate General Counsel