

DECISION

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

FILE: B-222203**DATE:** April 4, 1986**MATTER OF:** Georgetown Air & Hydro Systems**DIGEST:**

1. The contracting agency, not GAO, considers the legal status of a firm as a regular dealer or manufacturer under the Walsh-Healey Act, subject to review by the Small Business Administration and the Secretary of Labor.
2. Allegation that low bidder may have falsely represented itself in the small business concern representation of its bid will not be considered by GAO because the Small Business Administration has conclusive authority to determine matters of small business size status for federal procurements.
3. Protest allegations that low bidder may have falsely represented itself in certain clauses of the "Representations and Certifications" section of its bid are dismissed because the certifications pertain to matters of bidder responsibility which GAO will not consider. The information required may be provided by the bidder and confirmed by the contracting agency after bid opening.

Georgetown Air & Hydro Systems (Georgetown) protests the proposed award of a contract to Advanced Packaging (A.P.) under invitation for bids (IFB) No. 0000-620010, issued by the Department of State for computer case containers. The protest is dismissed.

First, Georgetown questions whether A.P. is a regular dealer or manufacturer as required by the Walsh-Healey Act, 41 U.S.C. §§ 35-45 (1982). As provided by our Bid Protest Regulations, our Office does not consider the legal status of a firm as a regular dealer or manufacturer under the Walsh-Healey Act. See 4 C.F.R. § 21.3(f)(9) (1985). The contracting agency determines the bidding firm's status, subject to review by the Small Business Administration and the Secretary of Labor. The W. H. Smith Hardware Co., B-219405, July 26, 1985, 85-2 C.P.D. ¶ 100.

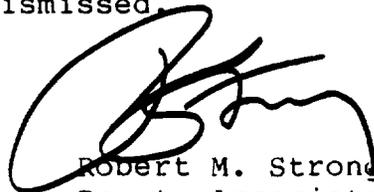
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Georgetown next argues that A.P.'s bid should be rejected because it "believe[s] A.P. falsely represented itself" in the IFB certifications relating to its status as a small business concern; as to the place of performance; in the "Clean Air and Water" certification; and in the Data Universal Numbering System (DUNS) number entries in its bid.

Our Office does not consider size status protests, since the Small Business Administration has conclusive authority under 15 U.S.C. § 637(b) (1982) to determine matters of small business size status for federal procurements. 4 C.F.R. § 21.3(f)(2); Rut's Delivery Service, B-217286, Apr. 26, 1985, 85-1 C.P.D. ¶ 474; Siska Construction Co., Inc., B-217593, June 26, 1985, 85-1 C.P.D. ¶ 724. In addition, a bidder's certification in a Place of Performance clause is informational and relates to bidder responsibility, not bid responsiveness. Therefore, if there was an irregularity in the certification of Place of Performance in A.P.'s bid, it would not have rendered the bidder ineligible for award. See Radionic Hi-Tech, Inc., B-216116, Aug. 6, 1985, 85-2 C.P.D. ¶ 230; Automatics Limited, B-214997, Nov. 15, 1984, 84-2 C.P.D. ¶ 535.

The Clean Air and Water certification and the DUNS number entries also pertain to the bidder's responsibility and are not necessary to decide whether the bid is responsive. This information therefore may be provided by the bidder and confirmed by the contracting agency after bid opening. See Sista Construction Co. Inc.--Request for Reconsideration, 64 Comp. Gen. 384 (1985), 85-1 C.P.D. ¶ 331; see also Marathon Enterprises, Inc., B-213646, Dec. 14, 1983, 83-2 C.P.D. ¶ 690.

The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel