



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Omega Container, Inc.

File: B-244954

Date: September 24, 1991

Gerson B. Kramer, Esq., for the protester,
Major William R. Medsger and John J. Welling, Esq.,
Department of the Army, for the agency.
David Hasfurther, Esq., and Andrew T. Pogany, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

In the absence of corrective action by an agency in response to a protest, a protester is entitled to protest costs only if the General Accounting Office determines that a solicitation, proposed award, or award does not comply with statute or regulation.

DECISION

Omega Container, Inc. protests the rejection of its bid under invitation for bids (IFB) No. DAAA09-90-B-0055, issued by the Army Armament, Munitions and Chemical Command for the procurement of fiber containers. Omega contends that the agency's stated reason for the rejection, the fact that the signature on Omega's bid was rubber-stamped rather than signed, was not valid. Omega also complains that, notwithstanding various attempts to determine why it had not received the award, the agency unreasonably delayed giving notice of the reason for the rejection of its bid.

In its report to our Office on the protest, the agency states that Omega had been mistakenly informed that its bid had been rejected for lacking a proper signature for its bid as a whole. Rather, the agency states that the bid had been rejected because the signature on the Certificate of Procurement Integrity had been rubber-stamped rather than signed. (The bid did not contain evidence that, before bid opening, Omega had authorized the use of a rubber-stamp signature.)

Omega concedes that under our case law, the rejection of its bid for this reason was proper. See generally Ed A. Wilson, Inc., B-244634, July 12, 1991, 91-2 CPD ¶ 53; A & E Indus., Inc., B-239846, May 31, 1990, 90-1 CPD ¶ 527. We therefore deem the protest ground abandoned. However, Omega notes that this was not the reason originally given as the basis for rejection and that had the proper basis been originally given, Omega would not have been put to the expense of protesting. Consequently, Omega requests that it receive bid preparation and protest costs.

In the absence of corrective action by an agency in response to a protest, our Office will declare a protester to be entitled to costs only if we determine that a solicitation, proposed award, or award does not comply with statute or regulations. See 4 C.F.R. § 21.6(d) (1991) and 56 Fed. Reg. 3759 (1991) (to be codified at 4 C.F.R. § 21.6(e)). In view of the protester's abandonment of its protest ground, we made no such determination here.

The protest is dismissed.



Michael R. Golden
Assistant General Counsel