



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

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B-177941

September 21, 1973

Fred Israel, Esquire
1015 18th Street, N. W.
Washington, D. C. 20036

Dear Mr. Israel:

Reference is made to your letter of July 13, 1973, and prior correspondence, protesting on behalf of Allied Materials and Equipment Company that the award made to Voss Machinery Company (Voss) under request for proposals (RFP) No. DAAFO3-73-R-0046 issued by the United States Army Weapons Command, Rock Island Arsenal, Illinois, is void and that there should be an immediate reprourement.

In support of the protest you have furnished an affidavit from the president of the United Protection Workers of America alleging that Voss is in violation of the Service Contract Act. You state that since the Army has refused to conduct a full investigation of the alleged violations, our Office should find that Voss is in violation of the Service Contract Act and that Voss never intended to comply with the Service Contract Act contractual obligations. You have further contended that an award should not have been made to Voss because it is not a "small business" concern.

A breach of a contractual obligation by a contractor does not affect the validity of a contract award. Thus, if Voss is in violation of the Service Contract Act labor standards required by the contract that would not have a retroactive effect upon the award. Further, the determination of whether there are Service Contract Act violations under the contract is not the responsibility of our Office. The Department of Labor is charged with overseeing the Service Contract Act. See 41 U.S.C. 352 and the regulations promulgated thereunder in 29 CFR 4.191. Under the Act, the function of our Office is limited to the listing of persons or firms that the Federal agencies or the Secretary of Labor have found to have violated the law. 41 U.S.C. 354. Moreover, under the Act and the regulations, the determination as to whether a contract shall be canceled for violations of the contract labor standards stipulations is a matter for the contracting agency. 41 U.S.C. 352(n) and 29 CFR 4.190. Accordingly, there is no basis for our Office to act upon your request that the contract with Voss be terminated because of the alleged labor violations.

[Protest Against Army Contract Award]

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Additionally, the RFP under which the award was made to Voss was not a small business set-aside. It is therefore immaterial whether Voss is a small business concern.

For the above reasons, the protest is denied.

Sincerely yours,

Paul G. Deubling

For the Comptroller General
of the United States