

**DECISION**

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

FILE: B-184755

DATE: July 21, 1976

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MATTER OF: Standard Bolt, Nut, &amp; Screw Co., Inc.

**DIGEST:**

No basis exists to question award to large business under labor surplus area set-aside when protesting small business was third low bidder and failed to provide required certification regarding its eligibility for labor preference.

Standard Bolt, Nut, & Screw Co., Inc. (Standard), protests the award of a contract to Standard Pressed Steel Co. (SPS) for the set-aside portion of a procurement under invitation for bids (IFB) DSA 500-75-B-2719, issued by the Defense Industrial Supply Center (DISC), Philadelphia, Pennsylvania.

Standard alleges that it was the only small business submitting a bid under the solicitation which had been "\* \* \* marked Set-Aside For Small Business and Labor Surplus Area." Therefore, it questions awards made to a large business at prices which Standard maintains were out of the competitive range for small bidders.

The record indicates that the invitation solicited bids for a 1-year requirements contract for self-locking nuts. Contrary to Standard's belief, the solicitation was issued as a 50-percent set-aside for labor surplus area (LSA) concerns rather than as a combined small business/LSA set-aside. This determination was made by the contracting officer with the concurrence of the Small Business and Economic Utilization Specialist and Small Business Administration representative pursuant to applicable regulations.

SPS submitted a bid of \$8.20 unit price per hundred (UPPH) which was the lowest of six bids received for the non-set-aside portion of the procurement. Standard was the third low bidder at \$13.10 UPPH. The IFB stated that the set-aside portion of the procurement was to be awarded in accordance with the provisions of

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clause C-36.1. In this regard, the pertinent part of paragraph (b) in clause C-36.1 provided that the award of the set-aside portion would be negotiated in the following order of priority:

- "Group 1. Certified-eligible concerns with a first preference which are also small business concerns.
- "Group 2. Other certified-eligible concerns with a first preference.
- "Group 3. Certified-eligible concerns with a second preference which are also small business concerns.
- "Group 4. Other certified-eligible concerns with a second preference.
- "Group 5. Persistent or substantial LSA concerns which are also small business concerns.
- "Group 6. Other persistent or substantial LSA concerns.
- "Group 7. Small business concerns which are not LSA concerns.
- "Group 8. Other business concerns which are not LSA concerns."

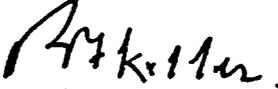
The clause further stated that, "Within each of the above groups, offers on the set-aside portion will be requested from concerns in the order of their offers on the non-set-aside portion, beginning with the lowest responsive offer. \* \* \*"

DISC notes that notwithstanding the warning contained in the cover sheet accompanying the IFB and the cautionary language of clause C-36.1, Standard did not provide with its bid the necessary information required by clause B-2, to establish "Eligibility for Preference as a Labor Surplus Concern." Therefore, Standard's failure to represent itself as a certified eligible concern precluded its being considered for an award as a certified eligible concern under Groups 1 through 6, supra.

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In establishing the order of priority for awarding the set-aside, SPS was determined to be eligible under Group 4. Since no other bidder, including Standard, qualified for inclusion in Groups 1 through 3, award was properly made to SPS.

Accordingly, the protest is denied.

  
Deputy, Comptroller General  
of the United States