

DECISION



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

McShane
Proc II

4298

FILE: B-199443

DATE: July 16, 1980

MATTER OF: James M. Carroll and
Ralph Rabatin

DIGEST:

PROTEST INVOLVING FAILURE

Question of whether Department of Army should have declared contractor in default because it allegedly failed to submit performance bond in required time is a matter of contract administration and not for consideration under GAO Bid Protest Procedures.

James M. Carroll and Ralph Rabatin protest the award of a contract by the Department of the Army under invitation for bids (IFB) No. DACA 56-7-80-0004 for the sale and removal of Building 645 from Tinker Air Force Base, Tulsa, Oklahoma.

The protesters argue that the awardee's failure to furnish a performance bond within 10 days of the award as required by paragraph 13 of the IFB should have resulted in the awardee's default. The protesters were the only other bidders on this procurement.

This Office has taken the position that where the solicitation provides that a performance bond is to be obtained subsequent to award a valid contract comes into existence at the time of the award, even though the awardee fails to furnish the bond within the required time. See Hi-Grade Cleaning, B-190889, April 14, 1978, 78-1 CPD 287. Compliance with the bonding requirement then becomes the obligation of the awardee. Hi-Grade Cleaning, supra.

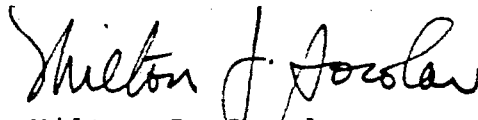
Whether the Army should have declared the awardee in default because the awardee allegedly failed to submit a performance bond in the required time is a matter of

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contract administration. These matters are not for consideration under our Bid Protest Procedures, 4 C.F.R. part 20 (1980), which are reserved for considering whether an award, or proposed award, of a contract complies with statutory, regulatory and other legal requirements. Joy Manufacturing Company, B-191168, March 7, 1978, 78-1 CPD 180; Dyneteria, Inc., B-186828, July 22, 1976, 76-2 CPD 72. It is the Army's responsibility to monitor the contract and to take appropriate action if the contract is not properly performed.

The protest is dismissed.


Milton J. Sogolar
General Counsel