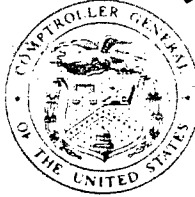


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DECISION



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

FILE: B-203421

DATE: June 1, 1981

MATTER OF: Rubber Stamps, Inc.

DIGEST:

1. GAO does not review Small Business Administration refusal to issue certificate of competency unless protester makes prima facie showing of fraud or demonstrates that information vital to responsibility determination was not considered.
2. GAO Bid Protest Procedures require protests based on alleged improprieties apparent prior to bid opening to be filed prior to that date. Protest filed after bid opening is untimely and will not be considered on merits.

Rubber Stamps, Inc. (Rubber), protests the rejection of its bid submitted pursuant to invitation for bids (IFB) No. 2FC-ET-A-A0295-S, issued by the General Services Administration (GSA), for a 1981 Federal Supply Schedule contract covering rubber stamps.

Rubber's bid was rejected as nonresponsible because the company did not possess the capability to satisfactorily perform based, in part, on the protester's unsatisfactory performance under its 1980 Federal Supply Schedule contract for rubber stamps. This matter was referred to the Small Business Administration (SBA) for the possible issuance of a certificate of competency (COC). By letter dated May 22, 1981, the SBA refused to issue a COC.

Rubber's protest to our Office questions GSA's finding of nonresponsibility and SBA's failure to issue a COC. In so doing, Rubber objects to the terms of its 1980 Federal Supply Schedule contract as applied by user agencies which led to complaints filed by those agencies with GSA which, in turn, contributed to the nonresponsibility finding. In addition, Rubber objects to similar terms in the instant IFB.

Protest of Bid Rejection as Nonresponsible

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With respect to the responsibility issue, the SBA has authority under its COC procedures to issue final determinations on whether small business concerns are responsible to receive and perform specific Government contracts. 15 U.S.C. § 637(b)(7) (Supp. I 1977); See Hub Testing Laboratories, B-199368, September 18, 1980, 80-2 CPD 204. As a result, our Office has consistently declined to review a contracting officer's determination of nonresponsibility where the determination has been affirmed by the SBA's denial of a COC unless the protester makes a prima facie showing of fraud or the record indicates that vital information relevant to the protester's responsibility has not been considered. Whitey's Wedding and Container Repair, dba Richmond Drydock and Marine Repair, B-202517.2, June 1, 1981, 81-1 CPD _____; Delta Lighting Corp., B-201225, April 10, 1981, 81-1 CPD 278.

Rubber does not allege fraud. In addition, the record indicates that vital information concerning Rubber's responsibility was considered by GSA and SBA. Accordingly, we will not consider this aspect of Rubber's protest.

To the extent Rubber objects to the terms of the instant IFB specifications, we find that the objection is untimely filed. Our Bid Protest Procedures require that protests based on alleged improprieties in an IFB that are apparent prior to bid opening be filed prior to that date. 4 C.F.R. § 20.2(b)(1) (1980). Rubber's protest was filed on June 1, 1981, after the February 18, 1981, bid opening date for the instant IFB.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel