

DECISION

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

FILE: B-211016**DATE:** March 28, 1983**MATTER OF:** Parco, A Division of Blue Mountain Products, Inc.**DIGEST:**

1. A bid submitted in response to a total small business set-aside, which failed to indicate whether the bidder would furnish supplies manufactured by a small business concern, was properly rejected as nonresponsive and may not be corrected.
2. Where protester's initial submission clearly shows protest is without legal merit, GAO will summarily deny the protest without requesting an agency report.

Parco, A Division of Blue Mountain Products, Inc. (Parco), protests the General Services Administration's rejection of its bid as nonresponsive under invitation for bids (IFB) No. 8YCG-C1-40019. Parco believes it should be permitted to correct the small business representations included in its bid by adding omitted material.

We find no legal merit to the protest.

The IFB sought bids for back-pack pump outfits and components and set aside the procurement for small business concerns only. In its bid, Parco completed the representations in standard form 33 that it was a small business firm and a regular dealer in the supplies offered, but left blank the section containing the representation that the supplies would be manufactured or produced by a small business concern. After bid opening, when Parco was informed that its bid was nonresponsive, it attempted to amend the bid to correct the omission. Parco contends that the fact that the product is manufactured by Parco in the United States becomes quite evident by reading further in the solicitation.

This Office consistently has held that if a bid on a total small business set-aside fails to establish the legal obligation of the bidder to furnish products manufactured or

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produced by small business concerns, the bid is nonresponsive and the bidder is ineligible for an award. See Culligan, Inc., 58 Comp. Gen. 307 (1979), 79-1 CPD 149. In the absence of such a representation, a small business contractor would be free to provide the supplies from either small or large business manufacturers as its private business interests might dictate, thus defeating the intent of the set-aside program. See Jimmy's Appliance, B-205611, June 7, 1982, 82-1 CPD 542.

This Office also consistently has held that a nonresponsive bid may not be changed or considered for correction since permitting a bidder to make its bid responsive after bid opening would be tantamount to permitting the submission of a new bid. See Dayton Chemical Corporation, B-200122, May 13, 1981, 81-1 CPD 373. Thus, Parco's bid may not be changed after bid opening to establish the bidder's eligibility for the set-aside.

Parco's contention that further reading of the solicitation should have made evident Parco's intent to manufacture the product in the United States is not supported by the record. However, if Parco's contention were true, the bid would still be nonresponsive since, at best, the bid would be ambiguous. See Cascade Pacific International, B-208149, August 3, 1982, 82-2 CPD 106. While Parco may have had every intention of meeting the small business set-aside requirement, the fact remains that Parco represented that it was a regular dealer, not a manufacturer, of the products and it did not make any representation as to whether a small business concern would manufacture the products.

It is clear from Parco's submission that the issue presented is without legal merit. We therefore are deciding the protest without obtaining an agency report since it would serve no useful purpose. Lowy's Express, Inc., B-206433, March 10, 1982, 82-1 CPD 228.

The protest is summarily denied.



Acting Comptroller General
of the United States