

DECISION

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

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FILE: B-213587

DATE: December 2, 1983

MATTER OF: Admiral Marine Co., Inc.

DIGEST:

1. GAO does not consider size status protests, since the Small Business Administration has conclusive authority to determine matters of small business size status for federal procurement purposes.
2. Whether a bidder on a small business set-aside actually supplies small business items, as it represented it would in the bid, is a matter of contract administration, which is the responsibility of the contracting agency, not GAO.

Admiral Marine Co., Inc. protests the award of a contract for wire rope to River City Supply by the Coast Guard under solicitation No. DTCG25-83-B-00029. We dismiss the protest.

Bid opening for the solicitation was September 26, 1983. On October 3, Admiral wrote to the Coast Guard protesting award of the contract to River City Supply. By letter of October 13, received by Admiral on October 17, the Coast Guard advised that it viewed Admiral's protest as an untimely complaint about the awardee's size status. We received Admiral's subsequent protest to our Office on November 1.

It is not clear whether Admiral's complaint to our Office is that River City Supply is not really a small business, or that River City Supply will not actually furnish a small business product even though the firm certified in its bid that it would do so. In either case, however, we will not consider the protest on the merits.

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First, our Office does not consider size status protests, since the Small Business Administration has conclusive authority to determine matters of small business size status for federal procurement purposes. 15 U.S.C. § 637(b)(6) (1982).

Second, the government's acceptance of a bid which represents that the bidder will furnish small business items results in a legal obligation on the bidder's part to do so. Unit Portions, Inc., B-210651, March 7, 1983, 83-1 CPD 228. Whether the firm complies with that obligation is a matter of contract administration, which is the primary responsibility of the contracting agency, not this Office. Id.

Finally, we note that Admiral filed its protest in our Office 11 working days after the firm received the Coast Guard's letter in response to Admiral's initial protest to that agency. Section 21.2(a) of our Bid Protest Procedures, 4 C.F.R. Part 21 (1983), provides that if a protest is filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days after the protester is notified of initial adverse agency action.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel