

**DECISION**

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

**FILE:**

B-215784

**DATE:**

December 3, 1984

**MATTER OF:**

Skip Kirchdorfer, Inc.

**DIGEST:**

Award may be made to a firm that is affiliated with a contractor suspended at the time of bid opening, and partly owned by an individual suspended at the time of bid opening, since the suspensions were terminated prior to award.

Skip Kirchdorfer, Inc., protests the award of a contract to Republic Maintenance Company of Kentucky, Inc., under solicitation No. DABT23-84-B-0029 issued by the United States Army, Fort Knox, Kentucky.

The protest is denied.

The solicitation, issued on May 29, 1984, sought bids for painting, floor refinishing and other maintenance for family housing areas at Fort Knox. Bids were opened on July 6, and the low bid was submitted by Republic. Kirchdorfer contends that Republic is affiliated or controlled by Howell and Howell, Inc., a company that, at the time of bid opening, was not eligible to receive a government contract. The protester asserts that Republic is at least partly owned by S. Oden Howell, Jr., who at the time of bid opening was also ineligible.

Howell and Howell, Inc. and S. Oden Howell, Jr. were on the Consolidated List of Debarred, Suspended, and Ineligible Contractors published by the General Services Administration in effect on July 6, when bids were opened. On July 25, the suspensions of both were terminated and they became eligible to receive contract awards. On September 28, the Army awarded a contract to Republic.


Federal Acquisition Regulation, § 9.405(a), 48 Fed. Reg. 42149 (1983) (to be codified at 48 C.F.R. § 9.405(a)), provides that agencies shall not solicit offers from or award contracts to suspended contractors unless there is a compelling reason to do so. A suspended bidder, however, is

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not prohibited from submitting a bid even though it may not receive an award unless the suspension is terminated. Bauer Compressors, Inc., 63 Comp. Gen. 303 (1984), 84-1 CPD ¶ 458. Eligibility for receiving an award is determined at the time of award, not at the time of bid opening. Id. Thus, a suspended contractor may submit an offer and become eligible for an award if the suspension is terminated prior to award.

In this case, even if the protester's contentions regarding the relationship of Mr. Howell and Republic are correct, and for that reason Republic was ineligible for an award at the time of bid opening, the company was eligible to contract with the Army after July 25. Accordingly, the agency properly determined that Republic was eligible for an award on September 28.

The protest is denied.

*for*   
Comptroller General  
of the United States