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DECISION



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

FILE: B-218236 **DATE:** March 11, 1985
MATTER OF: Micro Bio-Medics, Inc.

DIGEST:

1. A bid submitted in response to a total small business set-aside was properly rejected as non-responsive because bidder did not indicate if supplies would be manufactured or produced by a small business concern.
2. Where initial submission clearly demonstrates that protest does not state a valid basis for protest GAO will dismiss the protest without requesting an agency report.

Micro Bio-Medics, Inc. (MBM), protests the rejection of its bid as nonresponsive by the Defense Logistics Agency (DLA) under invitation for bids (IFB) No. DLA 120-85-B-0241. The procurement was a total small business set-aside with labor surplus area price differential to furnish first aid kits. MBM contends that DLA's rejection of its low bid was improper because the bid was responsive to all material terms of the invitation.

We dismiss the protest without obtaining an agency report from DLA in accordance with section 21.3(f) of our Bid Protest Regulations. See 49 Fed. Reg. 49,417, 49,421 (1984) (to be codified at 4 C.F.R. § 21.3(f)).

MBM alleges that the stated reasons for rejection of its bid were its failure to indicate the type of business organization submitting the bid and its failure to complete the Small Business Concern Representation which requires bidders to indicate whether they are small business concerns and whether supplies to be furnished will be manufactured or produced by small business concerns. However, MBM argues that as low bidder it should receive the contract because, read as a whole, its bid demonstrates that MBM is in fact a small business concern incorporated under the laws of the state of New York.

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Our Office has consistently stated that a bid on a total small business set-aside which fails to unequivocally establish the bidder's intention to furnish only products manufactured or produced by a small business concern is nonresponsive and the bidder is ineligible for award. Parco, A Division of Blue Mountain Products, Inc., B-211016, Mar. 28, 1983, 83-1 C.P.D. # 318; Dayton Chemical Corporation, B-200122, May 13, 1981, 81-1 C.P.D. # 373. MBM's failure to make the required representation is a matter of bid responsiveness which cannot be corrected after bid opening. Dayton Chemical Corporation, B-200122, supra. Consequently, the bid was properly rejected by the contracting officer as nonresponsive.

The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel