

DECISION

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

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FILE: B-220236**DATE:** September 20, 1985**MATTER OF:** Imperial Oil Company, Inc.**DIGEST:**

Protest that bidder does not qualify as labor surplus area concern because less than 50 percent of the manufacturing costs are in a labor surplus area involves a determination of affirmative bidder responsibility not for consideration by GAO.

Imperial Oil Company, Inc. (Imperial), protests an award to Battenfeld-American, Inc. (Battenfeld), by the Defense General Supply Center, Defense Logistics Agency, Richmond, Virginia, for the supply of various lubricating oils. Imperial reports that Battenfeld received the award because it was determined to be a labor surplus area (LSA) concern. Imperial protests that Battenfeld cannot qualify as an LSA concern because its cost for manufacturing in the LSA do not exceed 50 percent of its total costs. Additionally, Imperial states that it has reason to believe that Battenfeld will supply products other than those that it qualified and that it cannot manufacture its products at its bid price using qualified products from United States refineries.

We dismiss the protest.

Battenfeld's bid apparently represents that it will perform more than 50 percent of the work in an LSA. Whether Battenfeld will perform the required amount of work in an LSA relates to the contracting officer's affirmative determination of Battenfeld's responsibility. Putnam Mills Corporation, B-218776, June 24, 1985, 85-1 C.P.D. ¶ 718. This Office does not review protests against affirmative determinations of responsibility unless there is a showing

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of possible fraud or bad faith on the part of procuring officials or that the solicitation contains definitive responsibility criteria that have not been applied. 4 C.F.R. § 21.3(f)(5) (1985); Pacific Fabrication, B-219837, Aug. 30, 1985, 85-2 C.P.D. ¶ _____. Neither exception has been alleged here.

Similarly, Imperial's contention that Battenfeld cannot perform at its bid price using United States refinery products also concerns bidder responsibility, not for consideration by our Office, inasmuch as Battenfeld is obligated to perform in accordance with contract requirements.

Finally, the contention that Battenfeld may not deliver properly qualified products concerns whether Battenfeld will perform the contract in accord with all of its terms and specifications. This is a matter of contract administration. As such, it is the responsibility of the contracting agency and is not encompassed by our Office's bid protest function. 4 C.F.R. § 21.3(f)(1) (1985); Alan Scott Industries et al., 63 Comp. Gen. 610 (1984), 84-2 C.P.D. ¶ 349.

The protest is dismissed.



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