

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

FILE: B-183626

DATE: June 30, 1975

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MATTER OF: Ferguson, Huffman &amp; West, Inc.

## DIGEST:

1. Failure to initial erasures and corrections of two unit prices in bid, where there is no doubt as to intended bid prices, may be waived as minor informality. Also, failure to initial erasure and correction of prompt payment discount in bid may be waived where bid is low even if no discount were offered.
2. GAO will not review contracting officer's affirmative determination of prospective contractor's responsibility where there is no evidence of actions by procuring official that are tantamount to fraud.
3. Protest which questions small business status of another bidder is matter for consideration by SBA, rather than GAO.

Ferguson, Huffman & West, Inc., protested against an award to Sentinel Protective Services, Inc. (Sentinel), the low bidder under invitation for bids (IFB) No. DAAH03-75-B-0066, issued as a small business set-aside for grass cutting services by the Army Missile Command, Redstone Arsenal, Alabama. The protester contends that Sentinel's bid should be rejected as nonresponsive because the individual signing the bid failed to initial erasures and price corrections made on two bid items and on the percentage for prompt payment discount, as required by paragraph 2(b) of the Solicitation Instructions and Conditions. The protester further alleges that Sentinel lacks the independent ability and resources to perform the contract, and that the Small Business Administration (SBA) Atlanta District Director incorrectly determined that Sentinel was eligible for award as a small business, which determination was the subject of an appeal by protester before the SBA Size Appeals Board. Pending a decision by this Office, and subject to a determination by the SBA Size Appeals Board that Sentinel is a small business, the Assistant Secretary of Defense authorized prompt award of the contract to Sentinel as being otherwise advantageous to the Government, pursuant to Armed Services Procurement Regulation (ASPR) § 2-407.8(b)(3)(iii) (1974 ed.). This Office


subsequently was informed that such award was made under that authorization and ASPR § 1-703(b)(3)(iii) (1974 ed.), which creates the presumption that an SBA District Director's size determination has been sustained where, as here, a decision by the Chairman of the SBA Size Appeals Board on an appeal is not received by the contracting officer within a period of thirty working days.

Notwithstanding Sentinel's failure to initial the unit price corrections, there is no doubt as to what the bid prices are, since the extended prices for the subject items are unaltered in any way. We have held in such circumstances that the failure to initial changes may be considered an informality and waived in the interest of the Government pursuant to ASPR § 2-405 (1974 ed.). 49 Comp. Gen. 541 (1970). Further, in regard to the correction made on the prompt payment discount, we note that Sentinel's bid would be low even if no discount were offered. Accordingly, this failure to initial may also be considered a minor informality waivable under ASPR § 2-405 (1974 ed.).

Concerning Sentinel's ability to perform the contract, we have discontinued our previous practice of reviewing affirmative determinations by a contracting officer of a prospective contractor's responsibility except where actions by procuring officials that are tantamount to fraud are involved. 53 Comp. Gen. 931 (1974).

Finally, the protester has requested that our Office review the SBA's determination that Sentinel is a small business. In this regard, 15 U.S.C. § 637(b)(6) (1970) provides SBA with the authority to make conclusive determinations of small business status. 44 Comp. Gen. 271 (1964). We therefore find no legal basis to question the determination that Sentinel is a small business.

Accordingly, the protest is denied.

  
Deputy Comptroller General  
of the United States