

*Jack Nathan
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DECISION



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

FILE: B-186980

DATE: November 17, 1976

MATTER OF: Indian Made Products Company

DIGEST:

Protester's performance on previous contract for identical item showing 100 percent record of delivery delinquencies provides reasonable basis for negative determination of responsibility.

Indian Made Products Company (IMPC) protests the rejection of its bid submitted in response to solicitation No. FP00-EZ-48858-A issued by the Office Supply and Paper Products Division, Federal Supply Service, General Services Administration (GSA). The solicitation covered 1 year's requirements for ball point pen refills. With respect to two line items, IMPC's bid was low, but was rejected because of a finding of nonresponsibility resulting from poor performance on the contract for the previous year. IMPC disputes the findings regarding its previous performance and further contends the matter should have been submitted to the Small Business Administration (SBA) for a determination regarding the issuance of a certificate of competency (COC).

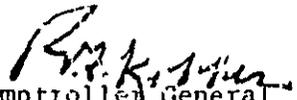
This Office has consistently held that the question of responsibility is a matter primarily for determination by the procuring agency. In the absence of a clear showing of bad faith or lack of a reasonable basis, this Office will not disturb the determination. Hydromatics International Corporation, B-181240, September 4, 1974, 74-2 CPD 142; 47 Comp. Gen. 139, 145 (1969).

The record indicates that of 11 orders accepted under the previous contract, not one was delivered on time, and the delinquencies ranged from over 1 month to over 3 months. This led to a critical back order situation for GSA which had no inventory from which to meet its requirements. Although IMPC asserts that the orders exceeded the amount it was obligated to deliver each month under the contract, it voluntarily accepted such excess orders and did not even meet the monthly minimums required by the contract. Based upon this information, we cannot conclude that GSA's determination of nonresponsibility lacked a reasonable basis.

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Because the estimated value of the procurement is under \$10,000, the contracting officer elected not to refer the matter to the SBA. This decision was made in accordance with Federal Procurement Regulations § 1-1.708-2(a)(3) (1964 ed.) which provides that the COC procedure is optional with regard to proposed awards of more than \$2,500 but less than \$10,000.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States