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**DECISION**



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

FILE: B-206194

DATE: February 4, 1982

MATTER OF: Edmonds Mechanical Contractor, Inc.

**DIGEST:**

1. Protest concerning small business size status is not for consideration by GAO since exclusive authority is statutorily vested with Small Business Administration.
2. The question of a bidder's legal capacity to perform under state or local law is a matter for resolution between the state or local authority and the potential contractor.

Edmonds Mechanical Contractor, Inc. protests the award of a contract to either the low or second low bidder under invitation for bids (IFB) No. F33601-82-B-0008 issued by Wright Patterson Air Force Base, Ohio, for mechanical services. The protest is dismissed in part and denied in part for the reasons stated below.

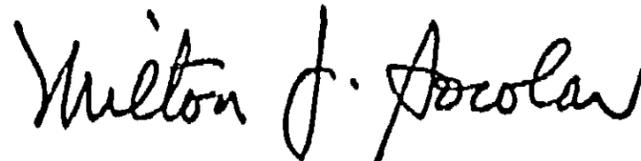
IFB -0008 was totally set aside for small business concerns. Edmonds raises the following grounds of protest: 1) that the first low bidder allegedly does not meet the small business size standard requirement that a firm's average annual receipts for its preceding three years not exceed five million dollars; 2) that the second low bidder's affiliation with a large firm renders it ineligible to participate in a small business set-aside; and 3) that the second low bidder is not qualified for award since it is not in "good standing" in the state of its incorporation, and consequently may not lawfully transact business as a foreign corporation in Ohio, the state in which the contract is to be performed.

With regard to the protester's first two contentions, 15 U.S.C. § 637(b)(6) (1976) provides that the Small Business Administration has exclusive

authority to determine matters of small business size status for Federal procurement purposes. Therefore, our Office will not review questions of a bidder's small business size status, and this aspect of the protest is dismissed. See Industrial Lease Inc. of Fayetteville, B-204446, August 31, 1981, 81-2 CPD 191.

Regarding the protester's allegation that the second low bidder is not qualified to transact business in Ohio, we have held that the question of a bidder's legal capacity to perform under state or local law is a matter for resolution between the state or local authority and the potential contractor. See Cottrell Engineering Corporation; Barnegat Bay Dredging Co., Inc., B-185830, March 2, 1976, 76-1 CPD 152. The protest is denied as to this issue.

Since it is clear from the protester's initial submission that the issues raised either are not for consideration under our bid protest procedures or are without merit, we will not obtain an agency report or conduct the requested bid protest conference. Macy M. Sharf Company, Inc.--Reconsideration, B-202955.2, June 30, 1981, 81-1 CPD 545.



Acting Comptroller General  
of the United States