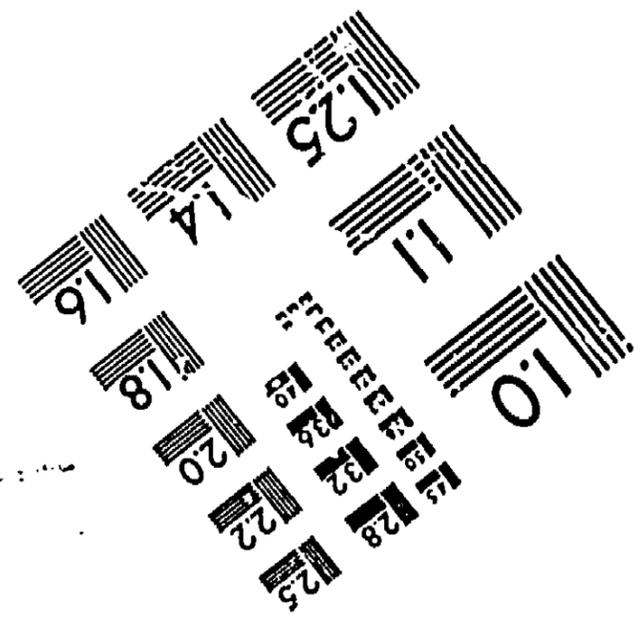
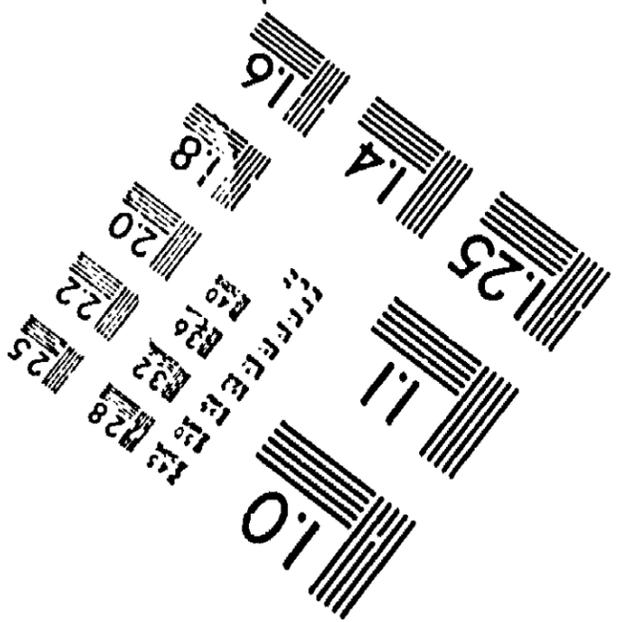
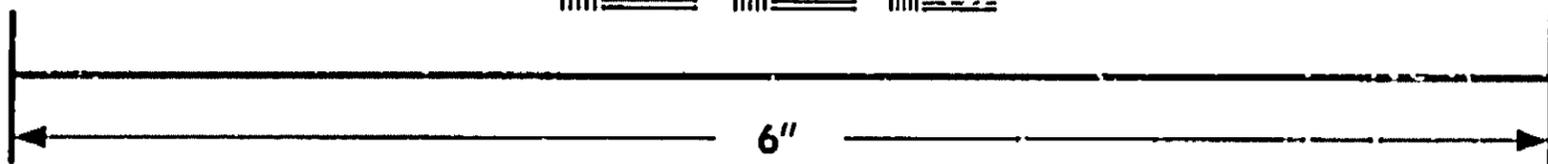
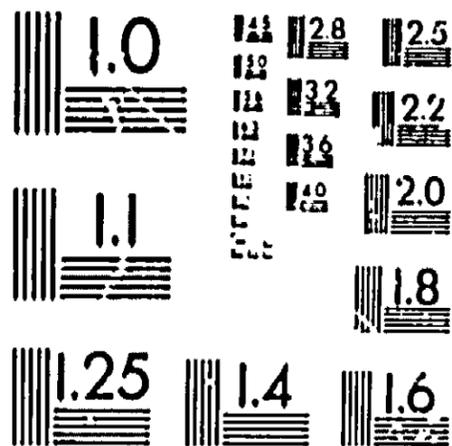


**IMAGE EVALUATION
TEST TARGET (MT-3)**



PHOTOGRAPHIC SCIENCES CORPORATION
770 BASKET ROAD
P.O. BOX 338
WEBSTER, NEW YORK 14580
(716) 265-1600



UNITED STATES

GENERAL

ACCOUNTING

OFFICE

DECISION



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

Mr. Johnson
J. H.
118579

FILE: B-207671

DATE: June 4, 1982

MATTER OF: Harbig Contracting Corp.

DIGEST:

Questions concerning small business size status are not for consideration by GAO since conclusive authority over such matters is vested by statute in Small Business Administration.

Harbig Contracting Corp. protests the award of a contract by the Department of the Army to any other bidder under invitation for bids No. DACA 51-82-B-0050, a small business set-aside. Harbig contends that the apparent low bidder does not meet the size criteria for a small business.

Under 15 U.S.C. § 637(b)(6), the Small Business Administration (SBA) has exclusive authority to determine matters of small business size status for procurement purposes, and such protests must be lodged with the contracting officer for forwarding to the SBA for resolution. Defense Acquisition Regulation § 1-703(b)(1). Therefore, our Office will not review questions of a bidder's small size status. See Doyle Shirt Manufacturing Corp., B-205959, January 11, 1982, 82-1 CPD 28.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

DECISION



118580 *Joseph*
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-207587

DATE: June 4, 1982

MATTER OF: Bernard Franklin Company

DIGEST:

Protest that the specifications in a solicitation are proprietary and restrictive of competition concerns an impropriety that is apparent in the solicitation and where the protest is not filed with GAO or contracting activity prior to initial closing date for receipt of proposals, it is untimely and will not be considered.

Bernard Franklin Company protests that the requirements set forth in a Request for Proposals (RFP) N00244-82-R-3283, issued by the Department of the Navy, restricts competition to a proprietary product. The protest was filed in our Office on May 19, 1982 and included a copy of a letter of protest addressed to the Navy which was dated May 13, 1982. We are informed that the closing date for receipt of proposals was April 6, 1982.

We dismiss the protest. Under our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1)(1981), protests initially filed with the contracting agency or this Office concerning alleged improprieties apparent in a solicitation must be filed prior to the closing date for receipt of proposals. In this instance, the initial protest was not filed until more than a month after that date and, consequently, the protest is untimely.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

B I L L A N I K

P A G E 1 E

END