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Page 1



DECISION

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

FILE: B-18845;

DATE: October 11, 1977

MATTER OF: Bartholomew & Company

DIGEST:

Small Business Administration (SBA) contracting officer's determination of nonresponsibility based on preaward survey concluding that offeror, small business concern otherwise in line for award, does not have capacity to perform required work must be referred to appropriate SBA official for consideration under certificate of competency program.

Bartholomew & Company, a small business, protests the award of a contract for providing management and technical assistance services to eligible businesses in the Denver, Colorado, area to Management Task Force under request for proposals (RFP) No. SBA-7(1)-MA-77-1 issued by the Small Business Administration (SBA).

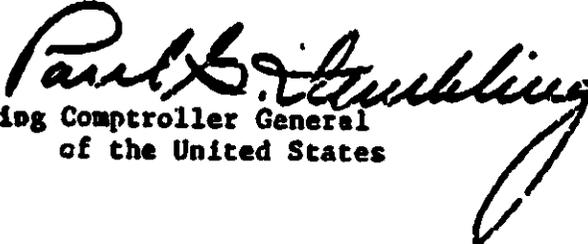
The RFP provided that proposals received for each geographic area would be evaluated on a joint system with respect to the experience and capability of each offeror's staff, the previous experience and effectiveness of each offeror's firm, and each offeror's man-day pricing. In each area award was to be made to the responsible offeror who submitted the highest evaluated proposal. Bartholomew submitted the highest evaluated proposal in the Denver area. However, as a result of a preaward survey to determine Bartholomew's responsibility, the contracting officer concluded that Bartholomew did not have the capacity (i.e., "staff on board") to perform the required work and, thus, Bartholomew was nonresponsible. Award was then made to the responsible offeror who submitted the next highest proposal.

Pursuant to 15 U.S.C. § 637(b)(7) (1970), SBA is empowered to certify conclusively to Government procurement officials with respect to the competency or capacity of any small business concern to perform specific Government contracts. Federal Procurement Regulations (FPR) § 1-1.708-2 (1964 ed. amend. 71), implementing that provision, provides that, when a small business concern's otherwise acceptable proposal is rejected solely because of a contracting officer's determination of nonresponsibility as to capacity, the SBA must be notified to permit the issuance of a certificate of competency (COC). The specific procedures for COC consideration are set forth in FPR § 1-1.708 (1964 ed. amend. 71).

B-188454

Accordingly, the SBA contracting officer was required to notify the appropriate SBA official in the COC program of the circumstances prior to making award to any other offeror. By letter of today to the Administrator of SBA, we are recommending that the contracting officer immediately refer the matter to appropriate SBA officials for possible issuance of a COC. If a COC is issued, and Bartholomew accepts award for the balance of the contract term, the current contract with Management Task Force should be terminated for the convenience of the Government. If a COC is not issued, or Bartholomew refuses such an award, no further action is required.

Protest sustained.


Acting Comptroller General
of the United States