

C. H. Hume, DCS

DEC 10 1978



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

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FILE: B-192806

DATE: October 11, 1978

MATTER OF: C. E. Wylie Construction Co.

DIGEST:

1. Protest concerning small business size status is not for consideration by GAO since conclusive authority to decide size status of concern is vested by statute in Small Business Administration.
2. Allegation that proposed awardee cannot and will not perform in accordance with IFB requirements relating to bidder responsibility, affirmative determinations of which are not reviewed by GAO except in limited circumstances not present here.

C. E. Wylie Construction Co. (Wylie) protests the proposed award of a contract to Maecon, Inc. (Maecon), by the Department of the Navy, Naval Facilities Engineering Command, San Bruno, California (Navy), under invitation for bids (IFB) No. N62474-77-B-2525.

It is Wylie's belief that Maecon is not a small business concern and cannot and does not intend to perform in accordance with the IFB requirements.

With respect to Maecon's size status, the Small Business Administration (SBA), pursuant to 15 U.S.C. § 637(b)(6) (1976), is empowered to conclusively determine matters of small business size status for Federal procurement purposes. Accordingly, the matter is for resolution by SBA and not our Office. Capitol Communications, Inc., B-190987, January 31, 1978, 78-1 CPD 84.

With respect to Maecon's ability to perform in accordance with the IFB requirements, this is an issue concerning Maecon's responsibility. An affirmative determination that a proposed awardee can and will perform in accordance with IFB requirements is one made by procuring officials and is not reviewed by GAO unless either fraud is alleged on the part of the procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Western Filament, Inc., B-192519, August 30, 1978. Neither exception is present here.

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Moreover, once the contract is awarded, compliance with the IFB requirements is a matter of contract administration which is for resolution by the contractor and the procuring agency, not this Office. Western Filament, Inc., supra.

The protest is dismissed.


Paul G. Dembling
General Counsel