

DECISION



11864
PL-11
Mr. Wesikoff
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-196339.2

DATE: October 30, 1979

MATTER OF: Medical Coaches, Inc.

DIGEST:

[Protest Alleging that Awardee Was Nonresponsible]

1. Issuance of COC by SBA is conclusive of awardee's responsibility and will not be reviewed by GAO in absence of prima facie showing of fraud or willful disregard of facts.
2. Contracting officer may allow offeror to waive expiration of its acceptance period so as to make award on the basis of offer as submitted provided the waiver would not be prejudicial to other competitors.

DLG-03213
DLG-03213

Medical Coaches, Inc. (MCI), protests the award of a contract under request for proposals (RFP) No. N00228-79-R-X268 issued by the Naval Supply Center (Navy), Oakland, California for the acquisition of "Radar Operational Facilities Complex Transportable" systems. The gravamen of the protest is that although the Small Business Administration (SBA) issued the awardee E.C. DeYoung (ECD) a Certificate of Competency (COC), the awardee should be found nonresponsible because of delinquencies on prior contracts. MCI further speculates that award was made after the acceptance period for ECD's offer had expired. We dismiss the protest as to the first issue and deny it as to the second for the reasons stated below.

FOC 969
FOC 2

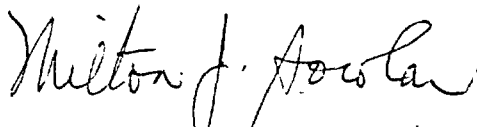
Under 15 U.S.C. § 637(b)(7) (Supp. I 1977) the SBA has authority to issue or deny a COC conclusively determining all areas of responsibility. J. Baranello & Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322. This

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Office has consistently declined to review SBA determinations of responsibility unless the protester has made a prima facie showing of fraud or such willful disregard of the facts as to imply bad faith. J. Baranello & Sons, supra. In this case the protester has not alleged fraud, and MCI admits that SBA considered the fact that ECD had almost completed two existing contracts. Therefore, we find no basis to review SBA's issuance of a COC, which is conclusive as to the matter of ECD's responsibility.

MCI also speculates that award was made to ECD after its offer had expired. However, it is our position that a contracting officer generally may allow an offeror to waive the expiration of its offer acceptance period so as to make an award on the basis of the offer as submitted, provided the waiver would not be prejudicial to other competitors. United Electric Motor Company, Inc., B-191996, September 18, 1978, 78-2 CPD 206.

The protest is dismissed in part and summarily denied in part.



For The Comptroller General
of the United States



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

IN REPLY
REFER TO:

B-196339.2

October 30, 1979

[Department of Navy Contract Award]

The Honorable James M. Hanley
House of Representatives

Dear Mr. Hanley:

By letters dated September 28, and October 11, 1979, you forwarded to our Office correspondence from Medical Coaches, Inc. (MCI), Oneonta, New York, concerning the award of a contract by the Department of the Navy to another firm.

We are enclosing a copy of our decision of today concerning MCI's protest of the same matter which was filed with this Office on October 5, 1979.

Sincerely yours,

Milton J. Arnold

For The Comptroller General
of the United States

Enclosure

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