

DECISION



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

[Protest Concerning Air Force IFB]

FILE: B-196360

DATE: February 20, 1980

MATTER OF: Alaska Associates, Inc. 3934

DIGEST:

1. Protest concerning small business size status of low bidders is not subject to review by GAO since by law it is matter for decision by SBA.
2. Complaint concerning alleged noncompliance with equal employment opportunity regulations is not for consideration under GAO Bid Protest Procedures.
3. GAO does not conduct investigations pursuant to bid protest function for purpose of establishing validity of protester's statements, as protester has burden to affirmatively prove its case.

Alaska Associates, Inc. (Alaska), protests certain actions in connection with invitation for bids (IFB) F65503-79-B-0025, issued by Eielson Air Force Base, Alaska. 3935

The subject IFB, a small business set-aside, was issued August 13, 1979, to obtain labor and equipment to pick up, drayage and deliver Government-owned household goods between public and private quarters, and warehouse facilities. Eight bids were opened on September 20, 1979, and the apparent low bidder on Schedule I was Continental Van Lines (Continental) and the apparent low bidder on Schedule II was Golden North Van Lines (Golden North). 3936

Alaska argues that Continental and Golden North are not small business firms, practiced discrimination and submitted bids below their published tariff rates

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in violation of Alaska Transportation Commission policies and Alaska State statutes. Alaska also requests our Office to conduct an independent review of the procurement actions in this case. The Air Force has denied the contentions raised and states that Alaska has not submitted evidence to support its allegations.

2- In accordance with Defense Acquisition Regulation (DAR) § 1-703 (1976 ed.), the contracting officer forwarded the small business size protest to the Small Business Administration (SBA) Regional Office in Seattle, Washington. The SBA determined that Continental and Golden North were small business firms. Under 15 U.S.C. § 637(b) (1976), the Small Business Administration is empowered to conclusively determine matters of small business size status for Federal procurement and sales purposes. See Versatile Services, Inc., B-195894, September 24, 1979, 79-2 CPD 219.

Regarding Alaska's discrimination complaints, the Air Force has forwarded these to the Director, Office of Federal Contract Compliance Programs (OFCCP), for investigation in accordance with DAR § 12-809. Such issues are not for consideration by our Office under our Bid Protest Procedures, 4 C.F.R. part 20 (1979). See Inflated Products Company, Inc., B-190877, May 11, 1978, 78-1 CPD 362.

The Air Force reports that Alaska has failed to support its allegation that the low bidders are in violation of State transportation policies, statutes, or regulations. Even if evidence of violation had been shown, we agree with the Air Force which states that it does not have the authority to investigate such complaints and that the protester's allegations should be forwarded to the Alaska Transportation Commission for appropriate action.

Our review of the record discloses no improprieties in the handling of the IFB. It is the responsibility of the protester to present probative evidence to affirmatively establish its position and Alaska has failed to do so in this case. See Bowman Enterprises, Inc., B-194015, February 16, 1979, 79-1 CPD 121.

Under our Bid Protest Procedures, we do not conduct investigations to establish the validity of a protester's statements. See Colonial Ford Truck Sales, Inc., B-194047, June 27, 1979, 79-1 CPD 458; M & H Mfg. Co., Inc., B-191950, August 18, 1978, 78-2 CPD 129. The protester has offered nothing of substance to support its bare allegation of improper action. Under the circumstances, we find no basis for considering the matter further.

Accordingly, the protest is dismissed.

Harry R. Van Cleave

for Milton J. Socolar
General Counsel