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DECISION



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

FILE: B-202955

DATE: May 19, 1981

MATTER OF: Macy M. Sharf Company, Inc.

DLG06701

DIGEST:

1. [Protest concerning small business size status of awardee] is not for consideration by GAO since by law it is matter for decision by SBA.
2. Protest against affirmative determination of responsibility, which does not allege fraud on part of contracting officer or failure to apply definitive responsibility criteria, is not for review by GAO.

Macy M. Sharf Company, Inc., protests the award of a contract under solicitation No. GSD-WDPR-10001-A-2-12-81, issued by the General Services Administration. The solicitation, a small business set-aside, was issued March 11, 1981, to inspect, recharge, and test fire extinguishers during a period of approximately 1 year. Macy contends that the awardee, Moor-Fite Corporation, does not qualify as a small business firm and has performed substandard work in the past.

DLG06702

Under 15 U.S.C. § 637(b) (1976), the Small Business Administration (SBA) is empowered to conclusively determine matters of small business size status for Federal procurement and sales purposes. Alaska Associates, Inc., B-196360, February 20, 1980, 80-1 CPD 149. Therefore, we will not consider this issue.

Additionally, because responsibility determinations are largely a matter of discretion, our Office will not review affirmative determinations of responsibility unless fraud is alleged on the part of the contracting officer or the solicitation contains definitive

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responsibility criteria which allegedly have not been applied. Fermont Division, Dynamics Corporation of America; Onan Corporation, B-195431, June 23, 1980, 80-1 CPD 438. Since neither fraud nor failure to apply definitive responsibility criteria has been charged, the protester has failed to meet the standard for review by our Office.

The protest is dismissed.

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