



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Superior Communication Services, Inc.--
Reconsideration
File: B-227369.2
Date: June 25, 1987

DIGEST

Protest that agency improperly intends to deny award to protester because the agency requested that a preaward survey be performed on the protester is premature because the agency has not yet made its final decision on the protester's eligibility for award.

DECISION

Superior Communication Services, Inc., requests reconsideration of our dismissal of its protest as untimely in connection with solicitation Nos. DABT57-87-C-0028 and DABT57-87-B-0017 issued by the Army. Superior concedes that its protest concerning solicitation No. DABT57-87-C-0028 is untimely, but argues that its protest under solicitation No. DABT57-87-B-0017 was timely filed.

Superior, a small business, states that it is the low bidder under solicitation No. DABT57-87-B-0017. The protester argues that the Army improperly requested that the Defense Contract Administrative Services Management Area (DCASMA) perform a preaward survey on Superior to determine the firm's eligibility for award. Superior believes that the government, in order to enhance small business competition, should award to small businesses such as Superior even if the small business concern is "financially weak." Superior states that it protested this matter within 10 working days after learning of the Army's request for a preaward survey and, therefore, we should consider its protest.

The protester's submissions indicate that the Army has requested that DCASMA perform a preaward survey on Superior to obtain information concerning the firm's financial capability to perform the contract. Thus, the Army has not

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yet made a final determination as to Superior's eligibility for award and the firm's protest is premature. Cooley Container Corp., B-221999, Feb. 24, 1986, 86-1 CPD ¶ 191.

Moreover, in the event the Army decides to reject Superior's bid, the Small Business Administration (SBA), not this Office will ultimately decide Superior's responsibility since it is the SBA's statutory function to review an agency's finding of nonresponsibility and to determine conclusively a small business concern's responsibility. It does so by either issuing or refusing to issue a certificate of competency in accord with the Small Business Act, 15 U.S.C. § 637(b)(7) (Supp. III 1985). Consequently, if the Army finds Superior nonresponsible, we would not ordinarily review that determination, since such a review would be tantamount to a substitution of our judgment for that of the SBA. Bid Protest Regulations, 4 C.F.R. § 21.3(f)(3) (1986); Cooley Container Corp., B-221999, supra; Franklin Wire and Cable Co., B-218557 et al., May 7, 1985, 85-1 CPD ¶ 511.

The protest is dismissed



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