



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Vycor Corporation  
File: B-232711  
Date: December 8, 1988

### DIGEST

1. Under the Small Business Act, contracting agency was required to refer its nonresponsibility determination regarding small business offeror to the Small Business Administration for certificate of competency consideration even though the solicitation was issued under small purchase procedures.
2. Where an agency finds an offeror nonresponsible and improperly fails to refer the matter to the Small Business Administration, the offeror is entitled to recover costs of preparing its quotation and pursuing its protest.

### DECISION

Vycor Corporation protests the rejection of its quotation under request for quotations (RFQ) No. MSD-88-0302, issued by the Agricultural Stabilization and Conservation Service, Department of Agriculture for the conversion of blueprint drawings to diskettes. Vycor's quotation was rejected after that firm was determined to be nonresponsible. Vycor contends that no evidence exists to support the agency's determination.

~~While~~ we do not decide Vycor's responsibility, we sustain ~~the~~ protest because the agency failed to refer the matter to the Small Business Administration (SBA).

Three companies, including the protester, submitted quotations under the RFQ, which was issued pursuant to the small purchase procedures in Federal Acquisition Regulation (FAR) Part 13. Vycor submitted the low price of \$3950.

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However, since agency personnel had been informed that Vycor was slowly "going under" and would not likely be able to complete the work and because of information concerning unsatisfactory performance from two other agencies, Vycor was determined to be nonresponsible and its quotation was rejected. The second low offeror, Planprint Company, was awarded the contract at \$5500.

Vycor argues that it is a viable company and contests the agency's position that it is not a responsible contractor.

Notwithstanding the merits of the agency's nonresponsibility determination, Vycor's quotation was improperly rejected because the agency did not refer the matter of that firm's responsibility to the SBA for consideration under its certificate of competency (COC) procedures as required by the Small Business Act, 15 U.S.C. § 637(b)(7) (1982 and Supp. IV 1986). See Semtex Industrial Corp., 65 Comp. Gen. 503 (1986), 86-1 CPD ¶ 367.

If the circumstances permitted, we would recommend that the matter be referred to the SBA for consideration of a COC but, since the contract has been completed, it is not practical for us to recommend such corrective action. Since, however, the agency failed to follow the statutory COC procedures, Vycor is entitled to recover the reasonable costs of preparing its quotation and of pursuing its protest. Bid Protest Regulations, 4 C.F.R. § 21.6(d) (1988). Vycor should submit its claim for such costs directly to the Department of Agriculture. 4 C.F.R. § 21.6(e).

*Milton J. Jocoler*  
for Comptroller General  
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