



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** J. Johnson Enterprise

**File:** B-234245

**Date:** May 18, 1989

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### **DIGEST**

Under the Small Business Act a contracting agency is required to refer its nonresponsibility determination regarding a small business offeror to the Small Business Administration for certificate of competency consideration, even though the solicitation was issued under small purchase procedures.

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### **DECISION**

J. Johnson Enterprise protests the rejection of its quotation under request for quotations (RFQ) No. 46-00-9-028, issued by the Farmers Home Administration (FmHA), United States Department of Agriculture, for the repair of a single-family dwelling. Johnson, the low-priced offeror, was rejected as nonresponsible by the FmHA, a determination which Johnson protests is not supported by the evidence and which FmHA failed to refer to the Small Business Administration (SBA) for consideration under certificate of competency (COC) procedures.

We sustain the protest without resolving the responsibility issue, because the FmHA failed to refer the matter to the SBA as required by statute.

In response to an RFQ which was issued pursuant to the small purchase procedures in Federal Acquisition Regulation (FAR) Part 13, eight firms submitted quotations with Johnson the low quoter at \$5,690. Because of insufficient information concerning its creditworthiness, the FmHA determined that Johnson was nonresponsible and rejected its quotation. Thomas W. Glick & Co., the second low offeror, was awarded the contract at \$6,389.

Johnson asserts that it is creditworthy and challenges both the FmHA's determination of nonresponsibility and the agency's failure to refer the matter to the SBA. We sustain

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this protest, without reaching the merits of FmHA's nonresponsibility determination, because the agency failed to refer the matter of the firm's responsibility to the SBA for consideration under its COC procedures as required by the Small Business Act, 15 U.S.C. § 637(b)(7) (1982 and Supp. IV 1986). See Vycor Corp., B-232711, Dec. 8, 1988, 88-2 CPD ¶ 573.

We would normally recommend that the matter now be referred to the SBA for COC consideration, but such corrective action is not practical in this case since the contract has already been fully performed. Accordingly, since FmHA failed to follow the statutory COC procedures, Johnson 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). Johnson's claim for such costs should be submitted directly to FmHA. 4 C.F.R. § 21.6(e).

The protest is sustained.

  
for Comptroller General  
of the United States