



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Falcon Associates, Inc.
File: B-236420
Date: August 18, 1989

DIGEST

A contracting officer's determination that a small business firm's bid is nonresponsible need not be referred to the Small Business Administration when the determination is based upon the unacceptability of the bidder's bond sureties.

DECISION

Falcon Associates, Inc., protests award to any other bidder under invitation for bids (IFB) No. GS-03P-89-DXC-0067, issued by the General Services Administration (GSA) for the removal of asbestos from the Fallon Federal Building in Baltimore, Maryland. While Falcon was the apparent low bidder, the contracting officer determined that the individual sureties on Falcon's bid bond were unacceptable and rejected Falcon's bid. Falcon contends that the contracting officer's determination must be referred to the Small Business Administration (SBA) for review under the certificate of competency (COC) procedures.

We dismiss the protest.

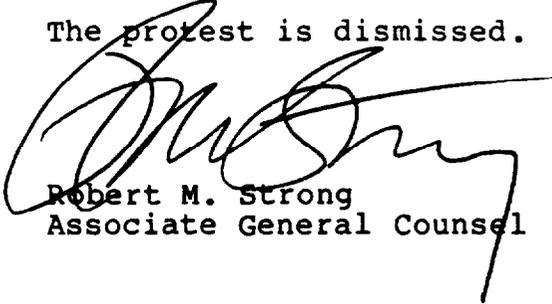
The IFB required submission of a bid bond equal to 20 percent of the bid. In compliance with this requirement, Falcon submitted a bid bond listing three individual sureties. However, none of the sureties had a net worth sufficient to guarantee 20 percent of Falcon's bid as required by the IFB. Accordingly, the contracting officer determined that Falcon was nonresponsible and rejected its bid.

Falcon contends that since it is a small business, the contracting officer's nonresponsibility finding automatically must be referred to SBA for review under the COC

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procedures. We disagree. An evaluation of surety responsibility is based exclusively on the qualifications of the surety rather than the bidder, and there is no indication that Congress intended to bring surety qualifications under the scrutiny of SBA through the Small Business Act. Accordingly, when the determination that a bidder is nonresponsible is based solely on the unacceptability of its sureties, the determination need not be referred to SBA. Clear-Thru Maintenance, Inc., 61 Comp. Gen. 456 (1982), 82-1 CPD ¶ 581; Cascade Leasing, Inc., B-231848.2, Jan. 10, 1989, 89-1 CPD ¶ 20.

The protest is dismissed.



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