



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Kerr Contracting Corporation

File: B-242213

Date: January 8, 1991

James A. Pemberton, Esq., King & King, for the protester. Christina Sklarew, Esq., and Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

The Small Business Administration has the statutory authority to review a contracting officer's findings of nonresponsibility and to conclusively determine a small business concern's responsibility through the certificate of competency process.

DECISION

Kerr Contracting Corporation protests the Air Force's rejection of its bid under invitation for bids (IFB) No. F49642-90-B-0045, a small business set-aside issued by Andrews Air Force Base for the testing of underground tanks. Kerr contends that the Air Force improperly found Kerr to be nonresponsible, and that when the matter was referred to the Small Business Administration (SBA) for the possible issuance of a certificate of competency (COC), the SBA improperly refused to issue a COC for the firm. We dismiss the protest. 4 C.F.R. § 21.3(m) (1990).

Kerr, a small business concern, submitted the lower of two bids received under the solicitation. The protester reports that after bids were opened, the Air Force contacted Kerr to request references and information regarding its past experience, and then informed the firm several days later that the reference check had proved unfavorable. The contracting officer referred the matter to the SBA for review under its COC procedures. The SBA advised Kerr that the Air Force had found Kerr nonresponsible based on its past performance record and met with the firm to discuss Kerr's response. The SBA ultimately declined to issue the COC, and this protest followed.

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