



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** SEAIR Transport Services, Inc.

**File:** B-261884

**Date:** July 17, 1995

### DECISION

SEAIR Transport Services, Inc., a small business, protests the Department of the Navy's determinations that it is not a responsible bidder under solicitation No. N62477-95-B-3032, and the Navy's subsequent referral of that decision to the Small Business Administration (SBA).

We dismiss the protest.

When a small business firm is determined to be nonresponsible by a contracting officer, that contracting officer must refer the matter to the SBA for consideration of issuance of a certificate of competency (COC). The Small Business Act, 15 U.S.C. § 637(b)(7) (1988), gives the SBA, not our Office, the conclusive authority to review a contracting officer's negative responsibility determination. After the referral has been made it is incumbent upon the small business to file a complete and acceptable COC application with the SBA in order to avail itself of the potential protection provided by statute against unreasonable or bad faith determinations of nonresponsibility. Commerce Funding Corp., B-236114, Oct. 2, 1989, 89-2 CPD ¶ 287.

The protester does not dispute SBA's responsibility in this regard; the protester instead contends that the contracting officer improperly determined it to be nonresponsible in the first place. However, as stated above, it is the SBA which is charged with the authority to determine if a contracting officer's nonresponsibility determination was properly made. The COC process was established to protect the interests of small businesses against unreasonable & bad faith responsibility determinations. Therefore, it is the protester's responsibility to avail itself of the protection afforded to it through the SBA's COC process rather than seek relief through our Office's bid protest process. Should the SBA deny the COC, SEAIR may protest at that time if it believes that the denial was based on bad faith.

  
Ronald Berger  
Associate General Counsel

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