

DECISION



12752 PL-1 Mr. Boyle
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-196986.2

DATE: February 5, 1980

MATTER OF: Comspace Corporation -OLG 03844

DIGEST:

GAO will not review contracting officer's determination of nonresponsibility where small business bidder does not avail itself of opportunity to file for certificate of competency from Small Business Administration, since that would result in substitution of GAO judgment for that of agency specifically authorized by statute to review determination.

Protest Against

Comspace Corporation protests the contracting officer's determination made November 26, 1979, that it is nonresponsible regarding the Department of the Army's invitation for bids (IFB) No. DAAJ09-79-B-5087. -AGC 00020

Comspace contends, as follows, that the preaward survey team used criteria and requirements above and beyond those contained in the solicitation:

(1) the survey team erroneously presupposed that the solicitation required that the necessary equipment be in house at the time of bidding;

(2) the survey team erroneously presupposed that Comspace had a particular quality assurance system in house at the time of bidding; and

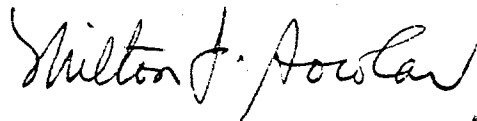
(3) the survey team digressed from the evaluation at hand and started to review another matter about which Comspace and another procuring activity were in dispute. Comspace believes that the dispute on that other contract would weigh very heavily in the evaluation of the current matter.

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2- The Army reports that pursuant to Defense Acquisition Regulation (DAR) § 1-705.4(c) and (d) (1976 ed.), the contracting officer, by letter dated November 26, 1979, forwarded to the Small Business Administration (SBA) the required information necessary to determine whether a certificate of competency (COC) should be issued. By letter dated December 4, 1979, the SBA notified the contracting officer that Comspace had elected to apply for a COC and had until December 11, 1979, to apply to the SBA. On December 13, the SBA informed the contracting officer that Comspace had failed to apply for a COC by the required date and that the SBA had closed the case. Citing Millard M. Braden, B-193493, December 12, 1978, 78-2 CPD 409; Inflated Products Co., et al., B-181522, November 19, 1974, 74-2 CPD 269; United Engineering, Inc., B-179959, February 15, 1974, 74-1 CPD 75, the Army states that our Office has consistently held that where a small business fails to file an acceptable COC application with the SBA, we will not undertake a review of a contracting officer's determination of nonresponsibility because such action would, in effect, amount to a substitution of our judgment for that of the agency specifically authorized by statute to review such decisions.

The Army's statement of our Office's view in cases of this type is correct; accordingly, the protest is dismissed.



Milton J. Socolar
General Counsel