

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

Smith  
27075

**FILE:** B-213716

**DATE:** December 14, 1983

**MATTER OF:** Trans World Maintenance Inc.

**DIGEST:**

1. Protest concerning bidder's qualifications as a small business concern is not for review by GAO since it is matter for decision by Small Business Administration.
2. GAO will not review an affirmative responsibility determination absent a showing of possible fraud or bad faith by government contracting officials, or that definitive responsibility criteria were not met.

Trans World Maintenance Inc. (TWM) protests the proposed award of a contract to Allstar Maintenance, Inc. by the Moffett Field Naval Air Station under solicitation No. N62474-83-B-6259, apparently issued as a small business set-aside.

TWM contends that Allstar's bid should be deemed nonresponsive because that firm is not a small business concern. TWM also contends that Allstar is nonresponsive because the firm is inexperienced in providing the type of maintenance services required by the solicitation and has no organization, employees, plant or equipment. The protester further states that Allstar is nonresponsive financially because the firm allegedly does not have the financial resources to perform at its bid price which is substantially below that of the second and third low bidders. We dismiss the protest.

Whether or not Allstar is actually a small business relates to Allstar's eligibility for award under the set-aside and does not concern the responsiveness of its bid. Jimmy's Appliance, 61 Comp. Gen. 444 (1982), 82-1 CPD 542. Moreover, under 15 U.S.C. § 637(b)(6) (1982), the Small Business Administration has conclusive authority to determine matters of small business size status for procurement purposes. Therefore, our Office does not under our Bid Protest Procedures review questions of a small

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business size status. 4 C.F.R. § 21.3 (1983), as amended by 48 Fed. Reg. 1932, January 17, 1983; Arcata Associates, Inc., B-210316, January 11, 1983, 83-1 CPD 30.

Regarding the protester's allegations that Allstar is not a responsible bidder, we will not review an affirmative determination of responsibility absent a showing of possible fraud or bad faith on the part of government contracting officials, or a showing that definitive responsibility criteria in the solicitation were not met. 4 C.F.R. § 21.3 as amended, supra; Jack Roach Cadillac, Inc., B-210043, June 27, 1983, 83-2 CPD 25. Neither has been alleged here.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel