

DECISION

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

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FILE:

B-212573

DATE: March 12, 1984**MATTER OF:**

Beehive Telephone Company

DIGEST:

Contract for telephone services to residents of Army base may only be awarded to firm certified by state public utility commission to provide such services. Since issue of proper certification and related matters are presently before state public utility commission for resolution, protest is dismissed.

Beehive Telephone Company (Beehive) protests the Department of the Army's proposed award of a "Basic Communication Facilities Service Agreement" (the Agreement) to The Mountain States Telephone and Telegraph Company (Mountain). Under the terms of the Agreement, Mountain will provide "unofficial" telecommunication services to residents of the base housing area at Dugway Proving Ground, Dugway, Utah. Beehive charges that the Army has improperly excluded it from competing with Mountain for this contract even though Beehive has offered to provide such services. Beehive contends that the Army's sole-source negotiations and proposed award to Mountain violate the Defense Acquisition Regulation's (DAR) mandate that communications systems shall be procured on a competitive basis to the maximum extent practicable. DAR § 22-1005.1(b) (1976 ed.).

The protest is dismissed.

In accord with DAR § 22-1005.1(a), communication services are to be procured "from the communication common carrier authorized by the appropriate regulatory body to operate within the service area in which services are required." In this case, in order to be eligible to provide service to residents of the Dugway base housing area, a common-carrier would have to receive certification from the Public Service Commission of Utah. DAR § 22-1002(e) (1976 ed.). The record shows that at all times pertinent to this procurement, Mountain is the only firm certified by the Public Service Commission of Utah to provide service to the base housing area at the Dugway Proving Ground. Beehive

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acknowledges that its specific authority does not cover the housing portion of the Dugway Proving Ground, but argues that it is certified to provide service to other portions of the Dugway facility and, therefore, believes that it is in the general service area and must be considered eligible for this contract under DAR § 22-1005.1(a).

Beehive has not yet been certified to provide services to the housing area, which is the subject of this procurement. However, Beehive has applied to the Public Service Commission of Utah for certification (Case No. 83-051-04). The Public Service Commission of Utah has indicated that it does have jurisdiction to resolve the issue of which common carrier will be allowed to provide services to Dugway and the related issues of any necessary construction and possible duplication of facilities. Since the issue is presently before the Public Service Commission of Utah and its decision regarding which firm will ultimately be certified for the housing area of the Dugway facility will determine the eligibility of either firm for this award, we dismiss the protest. See Matanuska Telephone Association, Inc.; Interior Telephone Company, B-179500, July 25, 1974, 74-2 CPD 55 (reconsidered and affirmed on December 26, 1974, 74-2 CPD 380); see also DAR §§ 22-1005.1 and 22-1002(e).

Harry R. Van Cleve
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