

Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** International Service Associates, Inc.

**File:** B-246272

**Date:** December 2, 1991

Colette Hendrix for the protester,  
Herbert F. Kelley, Jr., Esq. and Capt. Gerald P. Kohns,  
Department of the Army, for the agency.  
Jeanne W. Isrin, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

### DIGEST

Protest of nonresponsibility determination is dismissed where, after protest was filed, agency referred the matter to the Small Business Administration, which has conclusive jurisdiction over the matter.

### DECISION

International Service Associates, Inc. (ISA) protests the determination of its nonresponsibility under invitation for bids (IFB) No. DAHA90-91-B-0005, issued by the Department of the Army for security services at the National Guard Bureau facilities in Newington and Arlington, Virginia.

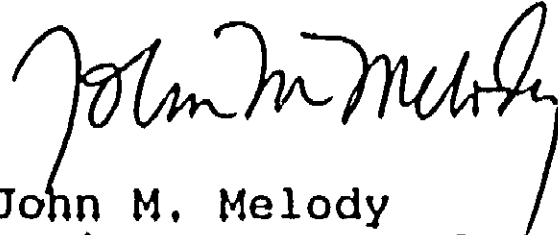
We dismiss the protest.

The solicitation required proof of licensing in the Commonwealth of Virginia prior to award and noted that a bidder would be rejected for failure to provide it. The Army found that ISA, the low bidder, failed to meet this requirement. The agency thus determined ISA nonresponsible and made award to the second low bidder on October 3. ISA filed this protest with our Office on October 15, arguing that the nonresponsibility determination was erroneous.

In its administrative report on this matter, the Army concedes that, because ISA is a small business, the determination of its nonresponsibility should have been referred to the Small Business Administration (SBA) for issuance or denial of a certificate of competency (COC). The Army states it now has referred the matter. The Small Business Act, 15 U.S.C. § 637(b)(7) (1988), gives the SBA conclusive authority to review a contracting officer's determination that a small business is not responsible. Therefore, we will not review an agency's nonresponsibility

determination when referral to SBA has been made. See Bid Protest Regulations, 4 C.F.R. § 21.3(m)(3) (1991); National Med. Staffing, Inc., B-242467, Jan. 14, 1991, 91-1 CPD ¶ 34.

The protest is dismissed.

A handwritten signature in black ink, appearing to read "John M. Melody". The signature is fluid and cursive, with the first name "John" being the most prominent.

John M. Melody  
Assistant General Counsel