



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: The Artec Group, Inc.

File: B-257714.2

Date: July 20, 1994

DECISION

The Artec Group, Inc. protests the award of a contract to Thomco Enterprises under solicitation No. N62467-94-B-0953 issued by the Department of the Navy as a small disadvantaged business set-aside.

The Artec Group first challenges that Thomco is not a small disadvantaged business. Under the Department of Defense's small disadvantaged business contracting program, the small disadvantaged business status of a bidder is determined by the Small Business Administration (SBA), not the General Accounting Office. 13 C.F.R. §§ 124.601 et seq. Under SBA's regulations, a protest challenging the disadvantaged status of a bidder or offeror is to be timely filed with the contracting officer, who in turn refers it to the SBA for a decision. 13 C.F.R. § 124.605. Accordingly, there is no basis for us to consider this issue.

The protester next contends that the contract "cannot be performed [at] Thomco's bid price." A protester's claim that a bidder submitted an unreasonably low price--or even that the price is below the cost of performance--is not a valid basis for protest. A bidder, in its business judgment, properly may decide to submit a price that is extremely low. Diemaster Tool, Inc., B-238877, Apr. 5, 1990, 90-1 CPD ¶ 375. An agency decision that the contractor can perform the contract at the offered price is an affirmative determination of responsibility which we will not review absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied. JWK Int'l Corp., B-237527, Feb. 21, 1990, 90-1 CPD ¶ 198. Where, as here, there is no such showing, we have no basis to review the protest.

The protest is dismissed.

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Associate General Counsel