



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Maw Company

File: B-258509; B-258510

Date: November 2, 1994

DECISION

Maw Company, a small business, protests the Department of the Air Force's determinations that it is not a responsible bidder under solicitation Nos. F34650-94-B-0016 (-0016) and F34650-94-B-0020 (-0020), respectively.

We dismiss the protest because we will not question a responsibility determination where the contractor found nonresponsible fails to avail itself of the certificate of competency (COC) procedure established for small businesses.

When a small business firm is determined to be nonresponsible by a contracting officer, that contracting officer must refer the matter to the Small Business Administration (SBA) for consideration of issuance of a COC. 15 U.S.C. § 637(b)(7) (1988). After the referral has been made it is incumbent upon the small business to file a complete and acceptable COC application with the SBA in order to avail itself of the potential protection provided by statute against unreasonable or bad faith determinations of nonresponsibility. Commerce Funding Corp., B-236114, Oct. 2, 1989, 89-2 CPD ¶ 287. Since the SBA has exclusive authority to determine whether a small business is not responsible, we do not consider protests of contracting officer determinations that a small business is not responsible. Furthermore, where a firm fails to apply for a COC with the SBA, we will not review the contracting officer's determination since such a review would amount to a substitution of our Office for the agency specifically authorized by statute to review these determinations. Belmont-Schick Inc., B-225100, Nov. 14, 1986, 86-2 CPD ¶ 562.

Here, referral was made to SBA under both solicitations. Under solicitation -0016, Maw elected not to proceed under the COC process; under solicitation -0020, Maw failed to timely submit the required information to the SBA. The Air Force therefore properly proceeded with award under each solicitation.

The protest is dismissed.

Paul Lieberman
Acting Associate General Counsel