

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548
79-2 CPD 295 703

FILE: B-194215.2

DATE: October 26, 1979

MATTER OF: Colonial Ford Truck
Sales, Inc. ✓

DIGEST:

1. Where agency terminated existing contract in order to award remainder of contract to claimant, a small business receiving a Certificate of Competency from Small Business Administration, agency can only offer four-month balance of one-year contract to claimant since award of full year contract at that point would go beyond original solicitation.
2. Anticipated profits are not recoverable against Government, even if claimant is wrongfully denied contract.

On February 13, 1979, Colonial Ford Truck Sales, Inc. protested the award to another firm by the Defense Construction Supply Center after the Center determined that Colonial was not a responsible bidder under solicitation No. DLA700-79-R-7009. As a result of the protest the agency referred the matter of Colonial's responsibility to the Small Business Administration for possible issuance of a Certificate of Competency (COC) under the Small Business Act, 15 U.S.C. § 637(b)(7) ✓ (Supp. I 1977). We informed Colonial that if a COC were issued, the agency would terminate the contract previously awarded under the solicitation and make award to Colonial.

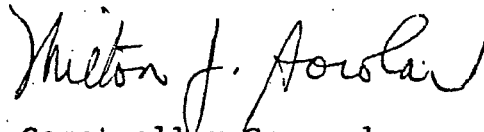
Colonial informs us that it has received a COC from the SBA and that it has accepted award of the contract for the four-months remaining in the one-year contract term. Colonial requests that we determine whether the agency acted properly "in attempting to force this company to accept a reduced contract that

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was improperly awarded in the first instance." Colonial asks that the agency award it a one-year contract. In the alternative, Colonial claims \$20,000 in profits it would have earned had it been awarded the contract for the additional eight months as well as profits it will not earn because it is performing at its original bid price but for a reduced quantity.

The agency acted properly in offering Colonial an award for only the balance of the contract term. While it is unfortunate that the contract had been performed for eight months before the responsibility matter could be resolved, the Government could not properly make an award that went beyond what was included in the original solicitation. Cf. 39 Comp. Gen. 566 (1960). Moreover, the Government did not force Colonial to accept a contract. Colonial was given the opportunity to reject or accept the award of a four-month contract. We cannot grant Colonial's request that it receive a one-year contract.

Regarding Colonial's request for anticipated profits, it is well established that anticipated profits are not recoverable against the Government even if a claimant is wrongfully denied a contract. Harco Inc.-- Reconsideration, B-189045, October 4, 1977, 77-2 CPD 261.



For The Comptroller General
of the United States