



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20541

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B-178743

September 4, 1973

Altair Enterprises, Inc.  
2589 Seppala Blvd.  
North St. Paul, Minnesota 55109

Attention: Mr. G. Dale Murray  
President

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Gentlemen:

We are in receipt of your telegram dated May 25, 1973, and subsequent correspondence, protesting the administrative procedures employed by the Small Business Administration (SBA) in denying your corporation a Certificate of Competency (COC) under invitation for bids (IFB) N00197-73-B-0215, issued by the Naval Ordnance Station, Louisville, Kentucky.

The low bid was submitted by your corporation. Based upon a preaward survey conducted by the Defense Contracts Administration Service District, Twin Cities, Minnesota, the contracting officer determined that Altair was nonresponsible as to both credit and capacity. Since Altair was a small business concern, the contracting officer then referred the question of Altair's competency to the SBA Regional Office in Chicago, which in turn advised Altair of the referral and informed it of what actions were required of it to apply for a COC.

Altair filed an application for a COC on April 24, 1973, together with supporting documentation. Investigation as to the "capacity" of Altair to perform the proposed procurement was conducted by the SBA District Office, Minneapolis, Minnesota. Their report found Altair to possess the requisite capacity and recommended issuance of a COC. Further investigation of Altair's "credit" was conducted by the SBA Chicago Regional Office. Their determination was that Altair had the necessary credit to perform and recommended issuance of a COC.

On May 8, 1973, the Chicago COC Review Committee found that, in its opinion, Altair had the requisite capacity and credit and recommended issuance of a COC. By memorandum dated May 8, 1973, the Regional Director recommended issuance of a COC and forwarded the file to the Central Office [SBA/Washington]. This was necessary because the amount of the contract exceeded \$250,000, and Regional Directors are not authorized to issue COC's where the dollar amount of the contract involved exceeds \$250,000. By letter dated May 10, 1973,

[Protest Against SBA Administrative Procedures]

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G. Dale Murray, President of Altair, submitted additional information regarding Altair's qualifications to the SBA Central Office.

The file was reviewed in the Central Office and it was determined that, based upon the record before the SBA, Altair lacked both the necessary capacity and credit. Based upon this determination, the COC Review Committee in the Central Office recommended denial of the COC, and on May 17 the application was denied. On this same date, both the contracting officer and the Regional Director, Chicago, were notified of the denial. Mr. Murray of Altair also learned of the denial on May 17. On that same date, at 4:48 p.m., EST, he sent a telegram to the Central Office requesting a delay in the decision for the stated reason that "\*\*\* there is probability of misunderstanding or misinterpretation regarding significant matter."

Mr. Murray then visited the Central Office and received an explanation of the reasons for the denial. Mr. Murray asserted that Altair could obtain the necessary credit and properly produce the items being sought. He was informed that SBA had taken final action on his application but that he could go to the Navy contracting officer and try to establish Altair's responsibility. He was further informed that SBA would consider his application further if the Navy contracting officer rereferred the matter to the SBA.

A plea was then made to a representative of the Office of the Assistant Secretary of the Navy to allow Altair to be afforded another hearing before SBA on all information relevant to the issue at hand. However, the Navy did not see fit to grant Altair's request. Therefore, Altair has protested to our Office alleging that the final SBA judgment was passed without review of all of the facts, and that attempts to make them available were ignored. Altair seeks, as a means of relief, to have our Office direct SBA to again review their submittal which now includes the additional material not previously examined by SBA.

With respect to the propriety of the SBA's actions, the record shows that the question of your responsibility was submitted to SBA pursuant to Armed Services Procurement Regulation 1-705.4(c) and that agency, in consideration of all information contained in the file, declined to issue a COC. SBA has authority under 15 U.S.C. 637(b)(7) to issue or deny COC's, and our Office has no authority to review SBA determinations or require it to issue a COC. See B177088, April 3, 1973; B175970, July 18, 1972; and B176804, September 6, 1972.

Accordingly, and since we are unable to be of assistance to you in this matter, your protest must be denied.

Sincerely yours,

Paul W. Dabbling

For the Comptroller General  
of the United States