

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

Fitzmaurice
PLI
14576

FILE: B-199523

DATE: August 14, 1980

MATTER OF: Lear Colorprint Corporation

DIGEST:

Contracting agency's determination that small business concern, otherwise in line for award, was nonresponsive because of poor performance on prior contracts must be referred to Small Business Administration for consideration under certificate of competency program.

Lear Colorprint Corporation (Lear) protests the award of contracts under invitation for bids (IFB) Nos. 313-408 and 313-441 issued by the United States Government Printing Office (GPO).

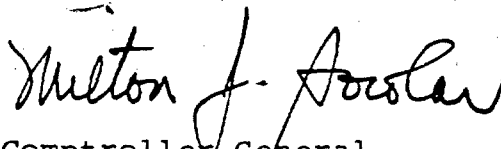
The IFB's solicited bids for the printing of certain forms to be used by the Internal Revenue Service in its 1980 Income Tax Program. Lear was the low bidder on both IFB's.

In its protest letter, Lear indicated that its bids had been found nonresponsive. However, upon receipt of the agency report, we learned that GPO had in fact found Lear to be nonresponsive. Moreover, the agency report indicates that Lear is a small business. Under the Small Business Act, 15 U.S.C. § 637(b)(7) (Supp. I, 1977), the Small Business Administration (SBA) is empowered to certify conclusively to Government procurement officials with respect to all elements of responsibility. Moreover, there are no exceptions to SBA's authority to determine the responsibility of a small business. Thus, whenever a contracting officer believes that a small business is nonresponsive, the matter must be referred to SBA for a final disposition. See Alderson Reporting, B-197663, April 21, 1980, 80-1 CPD 279.

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[Protest Against Contract Award]

In view of the above, we believe that the question of Lear's responsibility should be referred to SBA for the possible issuance of a certificate of competency. Therefore, by letter of today to the Public Printer, we are recommending that the contracting officer immediately refer the matter to the appropriate SBA officials. If a certificate of competency is issued, and Lear accepts award for the balance of the contract term, the current contract should be terminated for the convenience of the Government. But if a certificate of competency is not issued, or Lear refuses such an award, no further action is required.

Protest sustained.

A handwritten signature in dark ink, reading "Milton J. Fowler". The signature is written in a cursive style with a large, prominent "M" and "F".

For The Comptroller General
of the United States