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**DECISION**



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

FILE: B-204093

DATE: September 4, 1981

MATTER OF: Roy Anderson, Jr., Inc.

**DIGEST:**

GAO will not consider protest which objects to Small Business Administration (SBA) size determination because SBA is empowered under 15 U.S.C. § 637(b)(6) to make conclusive determination regarding size of status of bidders.

Roy Anderson, Jr., Inc. protests the Small Business Administration (SBA) Size Appeals Board's determination that Fortec Constructors is a small business under applicable size standards established by SBA. Anderson alleges that the Size Appeals Board failed to consider information which indicates that Fortec was awarded contracts totaling over \$58 million over the past three years by the Department of Defense alone, even though the applicable size standard provided that average annual receipts could not exceed \$12 million per year over the past three years. See 13 C.F.R. § 121.3-8(a) (1981). Instead, Anderson asserts, the Size Appeals Board relied on Fortec's tax returns to determine Fortec's size. Anderson states that under SBA regulations a firm's annual receipts must be established in accordance with general principles of accounting and argues that any "completed operations accounting method that blatantly understates the gross receipts of a company" is not in accordance with such principles.

Our Office generally does not review size status determinations because SBA is empowered under 15 U.S.C. § 637(b)(6) (1976) to conclusively determine the size status of bidders. GMP Scientific Corporation, B-201356, January 6, 1981, 81-1 CPD 8. Although the protester alleges that the Size Appeals Board misapplied its own regulations

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and thus our Office should review this matter, the protester's objections essentially relate to the Size Appeals Board's application of a size standard and the Board's decision that Fortec satisfies the standard. In this regard, we note that the SBA regulations permit the use of a "completed contracts" accounting method and also contemplate the consideration of a firm's tax returns in determining annual receipts. See 13 C.F.R. § 121.3-2(b). Thus, it appears that the protester's objections do not relate to any failure of the Size Appeals Board to follow its own published regulations.

Since the protester otherwise has not made a prima facie showing of bad faith or fraud, see Wyle Laboratories, B-186526, September 7, 1976, 76-2 CPD 223, we will not consider the matter.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel