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DECISION



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

FILE: B-201832.4 DATE: September 25, 1981
MATTER OF: Vernitron Corporation

DIGEST:

Protest of "possible" issuance of certificate of competency to low bidder is not for consideration since Small Business Administration's decision to issue certificate generally is not reviewable by GAO in absence of showing of fraud or bad faith.

Vernitron Corporation, on behalf of its wholly owned subsidiary, American Medical Instrument Corporation, protests the Small Business Administration's possible issuance of a certificate of competency to the low bidder on Defense Logistics Agency solicitation Nos. DLA120-81-B-0860 and DLA120-80-B-2884 issued by the Defense Personnel Support Center, Philadelphia, Pennsylvania.

The protester reports that the procuring agency has found the low bidder nonresponsible and referred the matter to the Small Business Administration under the certificate of competency program. The protester thinks the agency was correct in determining the low bidder to be nonresponsible because the low bidder must allegedly subcontract the job of reworking the finish on the surgical instruments being procured to a foreign concern.

The Small Business Administration has exclusive authority to make final and dispositive determinations as to all elements of a small business' responsibility. See 15 U.S.C. § 637(b)(7) (Supp. III, 1979). The small business has to perform a significant portion of the contract with its own facilities and personnel in order to qualify for a certificate of competency; moreover, to be eligible for a certificate on a procurement set aside for small businesses, a nonmanufacturing concern which submits bids or offers in its own name must intend

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to furnish contract end items "manufactured by a small business concern in the United States." 13 C.F.R. §§ 125.5(f) and (g) (1980). Therefore, the Small Business Administration will consider the ability of the low bidder to comply with its regulations governing issuance of these certificates.

The Small Business Administration determination on a certificate of competency generally is not reviewable by our Office in the absence of a showing of fraud or bad faith. Westco, Inc., B-202699, April 22, 1981, 81-1 CPD 314; Micrographics International, Inc., B-202043, March 4, 1981, 81-1 CPD 164.

Therefore, the protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel