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DECISION



20217
Winkler
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-204632.2

DATE: December 10, 1981

MATTER OF: Numax Electronics Incorporated

DIGEST:

GAO will not undertake an independent review of a contracting officer's nonresponsibility determination of a small business firm because the Small Business Administration, not GAO, has the statutory authority to conclusively determine a small business bidder's responsibility.

Numax Electronics, Inc. protests the Army's determination that Numax lacks elements of responsibility to supply items under invitation for bids No. DAA09-81-B-2237. Numax contends the determination was an abuse of discretion and was made in bad faith.

We will not consider the merits of this protest.

Numax is a small business concern, and the Army therefore referred the matter to the Small Business Administration (SBA) for a responsibility determination pursuant to the Certificate of Competency (COC) procedures. See Defense Acquisition Regulation § 1-705.4 (1976 ed.). The SBA has not yet issued a ruling.

The SBA, not this Office, has statutory authority to conclusively determine a small business bidder's responsibility by issuing or refusing to issue a COC. 15 U.S.C. § 637(b)(7) (Supp III 1979). Consequently, we will not undertake an independent review of a contracting officer's nonresponsibility determination because such action, in effect, would amount to a substitution of our judgment for that of the SBA, the agency specifically authorized by statute to review such decision. F.M.K. Apparel, Inc., B-203253, June 4, 1981, 81-1 CPD 448.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel