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Aspen

DECISION



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

FILE: B-206144

DATE: February 4, 1982

MATTER OF: Aspen Reforestation

DIGEST:

GAO will not review a small business firm's responsibility, since the Small Business Administration has authority to certify conclusively whether a small business is responsible.

Aspen Reforestation protests the contracting officer's decision that the firm is nonresponsible for purposes of award under invitation for bids R6-10-82-4, issued by the Forest Service for tree planting. The contracting officer's decision is based on the fact that Aspen Reforestation's president defaulted under another Forest Service tree planting contract, which he was awarded in his own name. Since Aspen Reforestation is a small business, the matter of its responsibility has been referred to the Small Business Administration under the certificate of competency (COC) procedures. Aspen Reforestation complains, however, that the SBA regional officials involved are biased against the firm's president, and therefore against the firm, because of the president's former employment with another contractor. The protester points out that these SBA officials denied Aspen Reforestation a COC under another procurement. The protester asks that this Office therefore review the firm's responsibility.

We will not consider the matter.

Under the provisions of the Small Business Act, 15 U.S.C. § 637(b)(7) (Supp. III 1979), the SBA has the authority to certify conclusively whether small business concerns are responsible to receive and perform Government contracts. In view of that specific statutory authorization, our Office will not review a contracting officer's determination that a small

business is nonresponsible. See Surgical Instrument Company of America, B-201832.3, September 16, 1981, 81-2 CPD 221. Further, our Office will not review the SBA's decision not to issue a COC, absent a prima facie showing of fraud or bad faith. Vernitron Corporation, B-201832.4, September 25, 1981, 81-2 CPD 250. In this respect, we do not believe that the COC proceedings are tainted with bad faith simply because of an unsupported allegation of bias or because the SBA previously denied a COC to the same firm.

The protest is dismissed.

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