

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20540

FILE: B-208089

DATE: August 27, 1982

MATTER OF: Data Transformation Corporation

DIGEST:

GAO will not review Small Business Administration's refusal to issue Certificate of Competency absent a showing of fraud or bad faith.

Data Transformation Corporation protests the General Services Administration's refusal to further consider its proposal for award under request for proposals No. CDPXE-81-010. GSA advises that the Small Business Administration has declined to issue a Certificate of Competency (COC) establishing Data Transformation's responsibility under this solicitation and that, consequently, it is not eligible for award. In view thereof, we will not consider the protest.

The SBA has conclusive authority to determine a small business offeror's responsibility by issuing or declining to issue a COC, and that determination is conclusive on this office. 15 U.S.C § 637(b)(7) (Supp. III 1979). Therefore, we generally will not review such determinations absent a prima facie showing of fraud on the part of Government officials or that information vital to the responsibility determination was willfully disregarded, thus implying bad faith, because even if we disagreed with the SBA, its judgment is binding on the contracting officer by law. J. Baranello & Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322. No such showing has been made by the protester here.

Data Transformation advises that it is seeking additional information from GSA under the Freedom of Information Act which may warrant our consideration. Since the protester has furnished no specific indication of the nature of its concerns with GSA, there is nothing for us to consider at this time.

The protest is dismissed.

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