

DECISION

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

Review
120123

FILE: B-209996

DATE: December 15, 1982

MATTER OF: Jechura's Military Equipment Company

DIGEST:

GAO will not question a contracting officer's determination that a small business is nonresponsible where that determination is affirmed by Small Business Administration's refusal to issue a Certificate of Competency.

Jechura's Military Equipment Company protests the rejection of its bid by the U.S. Army Tank-Automotive Materiel Readiness Command, Warren, Michigan, under invitation for bids No. DAAE-07-82-B-5848 for military winches. We dismiss the protest.

The contracting officer determined as the result of a preaward survey that Jechura would be unable to meet the required production schedule. It therefore determined the firm to be nonresponsible and ineligible for award. Since Jechura is a small business, the contracting officer referred the question of Jechura's responsibility to the Small Business Administration (SBA) for the possible issuance of a Certificate of Competency (COC). SBA declined to issue a COC. Jechura then protested the rejection of its bid, contending that the contracting officer and the SBA improperly determined that it cannot meet the required production schedule.

SBA has conclusive authority to determine a small business bidder's responsibility by issuing or declining to issue a COC. 15 U.S.C. § 637(b)(7)(A) (Supp. IV 1980). Thus, our Office will not question a contracting officer's nonresponsibility determination

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where the SBA affirms that determination by refusing to issue a COC. Aerovoe-Pacific Company, B-206062.2, April 26, 1982, 82-1 CPD 384. In addition, we will not question the SBA's refusal to issue a COC unless the small business can show that there was fraud or bad faith on the part of Government officials. C & W Associates, Inc., B-206377, May 4, 1982, 82-1 CPD 420. There has been no showing of fraud or bad faith here.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel