

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

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FILE: B-213334

DATE: December 2, 1983

MATTER OF: Jechura's Military Equipment

DIGEST:

1. GAO generally will not review a determination of nonresponsibility with respect to a small business bidder since by law the Small Business Administration is empowered to conclusively determine the responsibility of a small business.
2. Allegations attributing unfair motive to procurement officials are regarded as mere speculation where record fails to demonstrate bias against the protester.

Jechura's Military Equipment (JME) protests that the United States Army Tank-Automotive Command, Warren, Michigan, unfairly rejected its bid because it allegedly lacks the ability to perform and meet production schedules under invitation for bids No. DAAE07-83-B-H885. JME indicates it has applied for a certificate of competency (COC) from the Small Business Administration and questions the motives of certain individuals who conducted the preaward survey.

We dismiss the protest.

The question of whether JME has the ability to perform the contract concerns a matter of responsibility, which as a matter of law is for the SBA. See 15 U.S.C. § 637(b)(7) (Supp. IV, 1980) and section 1-705.4(c) of the Defense Acquisition Regulations (1976 ed.). The SBA is empowered to certify conclusively with regard to all aspects of a small business' responsibility by issuing or denying a COC, which is binding upon the contracting agency. See Johnson & Wales Colleges; NonPublic Educational Services, Inc., B-204575; B-204912, March 3, 1982, 82-1 CPD 190; Data Transformation Corporation, B-208089, August 27, 1982, 82-2 CPD 182. Therefore, it would be inappropriate for our Office to consider the responsibility determination since that would amount to our Office substituting for the agency specifically authorized by statute to review such matters.

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Moreover, unfair or prejudicial motives will not be attributed to procurement officials on the basis of inference or supposition. Where, as here, the written record fails to demonstrate bias, the protester's allegations are properly to be regarded as mere speculation. Sperry Rand Corporation, 56 Comp. Gen. 312, 317 (1977), 77-1 CPD 77.

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