



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Atlanta Investigations, Inc.--Request for
Reconsideration
File:
Date: B-224326.2
November 6, 1986

DIGEST

Prior dismissal of a small business protest is affirmed where request for reconsideration seeks GAO review of contracting officer's nonresponsibility determination which has been referred to the Small Business Administration (SBA) for consideration under certificate of competency procedures, under which SBA has exclusive authority to determine a small business's responsibility.

DECISION

Atlanta Investigations, Inc. (AII), requests reconsideration of our October 22, 1986, dismissal of its protest against the award of a contract to Carolina Security Patrol Services (CSPS) under invitation for bids No. GS-04P-86-EWC-0305, issued by the General Services Administration (GSA).

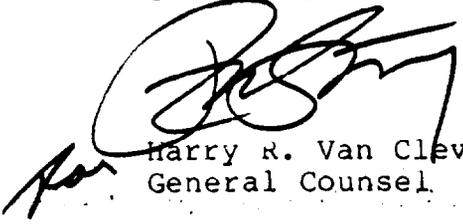
AII initially protested to our Office that its low bid had been improperly rejected as materially unbalanced. GSA reviewed AII's bid and determined that it was not materially unbalanced. However, the GSA contracting officer determined that AII, a small business, was nonresponsible. GSA notified our Office that the nonresponsibility determination had been referred to the Small Business Administration (SBA), for consideration under the certificate of competency (COC) procedures. GSA further advised that if SBA issues a COC, CSPS's contract will be terminated, and award made to AII. We then dismissed AII's protest as academic because the relief requested was granted, and because we would not review an SBA refusal to issue a COC.

AII now protests that GSA made an improper nonresponsibility determination, and that AII should have been awarded the contract immediately.

GSA has now determined that AII is the low responsive bidder. Under section 8(b)(7) of the Small Business Act, 15 U.S.C. § 637(b)(7) (1982), SBA is authorized to determine conclusively the responsibility of a small business concern by issuing or refusing to issue a COC. Accordingly, our Bid Protest Regulations provide that we will not review a determination by SBA with respect to a COC referral, absent a showing of possible fraud or bad faith on the part of government officials. 4 C.F.R. § 21.3(f)(3) (1986). Our dismissal of AII's initial protest was based on this provision.

Similarly, since the contracting officer's decision is subject to a conclusive determination by the SBA, we will not consider AII's protest of the nonresponsibility determination. Comspace Corp.--Request for Reconsideration, B-223714.3, Sept. 4, 1986, 86-2 C.P.D. ¶ ____.

The prior dismissal is affirmed.



Harry R. Van Cleve
General Counsel