



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Vanbar  
**File:** R-226107  
**Date:** February 4, 1987

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## DIGEST

The General Accounting Office will not review an allegation concerning a contracting officer's negative responsibility determination of a small business concern where the small business fails to file an application for certificate of competency with the Small Business Administration.

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## DECISION

Vanbar protests the rejection of its bid under invitation for bids (IFB) No. DAAH01-86-B-0131, issued by the United States Army Missile Command, Redstone Arsenal, Alabama, on the basis that Vanbar is a nonresponsible bidder.

We dismiss the protest.

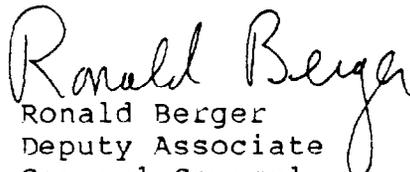
The solicitation, issued on August 6, 1986 as a small business set-aside, sought bids for a quantity of canopy launching stations used with the Chaparral missile system. Six firms submitted bids by the September 6 bid opening date, and Vanbar was the apparent low bidder. In connection with a review of Vanbar's responsibility, the Defense Contract Administration Services Management Area (DCASMA), San Antonio, Texas, conducted a pre-award survey of Vanbar's facilities. This survey, performed on November 26, recommended that no award be made to Vanbar based on findings that the bidder's technical, production and quality assurance capabilities were unsatisfactory. Based on this report, the contracting officer found Vanbar to be nonresponsible, and on December 15, referred his determination to the Dallas regional office of the Small Business Administration (SBA) under the certificate of competency (COC) procedures. The contracting officer notified Vanbar of this referral. Vanbar did not file an application for a COC, however, and as a result the SBA closed its file on December 31.

The Army awarded a contract to PBR Electronics on January 14, 1987.

In its protest, Vanbar alleges that the negative responsibility determination stemmed from erroneous and incorrect information furnished by the pre-award survey team. Had this team properly conducted the survey and requested all pertinent information regarding its past performance under numerous government contracts and the qualifications of its key personnel, Vanbar states that there would have been no dispute concerning its ability to perform this contract.

A small business firm contesting a negative responsibility determination is responsible for filing a complete and acceptable COC application in order to avail itself of the protection provided by statute against unreasonable determinations of responsibility. See L.A. Spievak Corp., B-216535, Nov. 26, 1984, 84-2 CPD ¶ 556. The SBA has conclusive authority to issue or deny a COC, thereby resolving questions of nonresponsibility for small businesses. 15 U.S.C. § 637(b)(7) (Supp. III 1985). Where, as here, a firm fails to pursue the administrative process specifically established by law to remedy the alleged improper agency action by not filing for a COC, we will not review the agency's determination of nonresponsibility. Such action in effect would substitute our Office for the agency specifically authorized by statute to perform such a review. See Kos Kam, Inc., B-221806, May 14, 1986, 86-1 CPD ¶ 460, aff'd on reconsideration, June 11, 1986, 86-1 CPD ¶ 543; Darian Industries, Inc., B-221128, et al., Apr. 24, 1986, 86-1 CPD ¶ 401.

The protest is dismissed.

  
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