



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Danken Enterprises--Request for
Reconsideration

File: B-235330.2

Date: May 25, 1989

DIGEST

Small Business Administration (SBA) is authorized by statute to certify conclusively as to all elements of a small business concern's responsibility; therefore, procurement activity acts properly in referring a nonresponsibility determination regarding a small business to the SBA and the SBA acts properly in determining whether that business is a responsible prospective contractor.

DECISION

Danken Enterprises requests that we reconsider our dismissal of its protest against the rejection of its proposal under solicitation for offers No. GS-05B-14915 issued by the General Services Administration (GSA) for the acquisition of office space in Indianapolis, Indiana. Danken's proposal was rejected because GSA determined that Danken was nonresponsible and the Small Business Administration (SBA) subsequently refused to issue it a certificate of competency (COC). We dismissed the protest because our Office generally does not review SBA's COC decisions.

In its request for reconsideration, Danken contends that because the solicitation was issued by GSA, SBA should not have been involved in making the responsibility determination. Danken also alleges for the first time that "SBA's determination was prejudiced by other factors not associated with this solicitation. . . ."

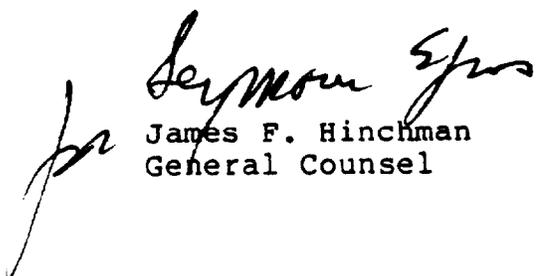
We affirm our dismissal.

Where, as here, a contracting officer determines that a small business concern is not a responsible, prospective contractor, he must withhold award and refer the matter to SBA for consideration under the SBA's COC procedures. Federal Acquisition Regulation § 19.602-1(a). The SBA has

the statutory authority to review a contracting officer's finding of small business responsibility and the SBA's determination to issue or refuse to issue a COC is conclusive with respect to all aspects of the small business concern's responsibility. 15 U.S.C. § 637(b)(7) (1982); Short Electronics, Inc., B-231610, Sept. 13, 1988, 88-2 CPD ¶ 233. Consequently, there was nothing improper in GSA's referral of the matter to the SBA and to the SBA's consideration of the protester's responsibility.

As for Danken's argument that SBA's responsibility determination was prejudiced by factors not associated with this solicitation, as we indicated in our dismissal, this Office generally does not review SBA's responsibility determinations unless the protester can show either that government officials may have acted fraudulently or in bad faith or that SBA officials failed to consider vital information bearing on the firm's responsibility. AquaSciences International, Inc.--Request for Reconsideration, B-225452.2, Feb. 5, 1987, 87-1 CPD ¶ 127. Danken's unsupported and unexplained allegation that SBA's responsibility determination was prejudiced by factors unrelated to this acquisition does not provide a basis for us to undertake an independent review of SBA's decision. Astrodyne, Inc.--Request for Reconsideration, B-231509.2, July 7, 1988, 88-2 CPD ¶ 24.

The dismissal is affirmed.


James F. Hinchman
General Counsel