

DECISION



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

27474

FILE: B-214224

DATE: February 22, 1984

MATTER OF: Georgetown Industries

DIGEST:

1. GAO will not undertake an independent review of a contracting officer's non-responsibility determination of a small business concern because the Small Business Administration (SBA) has statutory authority to determine conclusively a small business concern's responsibility.
2. GAO will not review the SBA's decision not to issue a certificate of competency where the protester fails to make a prima facie showing of fraud or willful disregard of the facts.

Georgetown Industries (GTI) protests the contracting officer's negative determination of its responsibility and the Small Business Administration's (SBA) refusal to issue it a certificate of competency (COC) under invitation for bids No. 2FC-EAC-A17744-S. GTI alleges that "tactical games" and discrimination were involved in the decision to deny the COC.

We dismiss the protest.

Under 15 U.S.C. § 637(b)(7) (1982), the SBA has authority to conclusively determine the responsibility of small businesses by issuing or refusing to issue a COC, not this Office. Thus, we will not undertake an independent review of a contracting officer's nonresponsibility determination, since such review would be tantamount to a substitution of our judgment for that of the SBA. Tar Heel Canvas Products, Inc., B-211537, May 6, 1983, 83-1 CPD 481.

Moreover, unless a protester makes a prima facie showing of bad faith or fraud, or demonstrates that information vital to a nonresponsibility determination was not considered, our Office will not review SBA determinations to require the SBA to issue a COC, or to reopen a case when a

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COC has been denied. Martin Tool and Die Incorporated, B-208796, January 19, 1983, 83-1 CPD 70. Although GTI alludes to "tactical games" and discrimination, the record is insufficient to support a finding of bad faith or willful disregard of the facts.

for *F. H. Barclay, Jr.*
Harry R. Van Cleve
Acting General Counsel