

DECISION

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

29836

FILE:

B-216535

DATE: November 26, 1984**MATTER OF:**

L. A. Spievak Corp.

DIGEST:

GAO will not review rejection of small business bidder as being nonresponsible where the bidder fails to file an application for a certificate of competency with the Small Business Administration.

L. A. Spievak Corp. (Spievak) protests the contracting officer's determination that the company was nonresponsible and therefore ineligible to receive awards under invitation for bids (IFB) FEP-CP-F0254-A and invitation for bids FEP-CV-F0259-A, issued by the General Services Administration (GSA). The IFB's were for GSA's requirements for various types of gauges and squares.

Spievak contends that the preaward survey, upon which the determination of nonresponsibility was based, was arbitrarily and incompetently performed and thus contained false information. We dismiss the protest.

GSA advises that since Spievak is a small business, it referred the contracting officer's negative responsibility determinations under the two IFB's to the Small Business Administration (SBA) as required by 15 U.S.C. § 637(b)(7) (1982), for consideration under the SBA's certificate of competency (COC) procedures. GSA further advises that despite expressing an initial intent to file for a COC for both solicitations, Spievak failed to file a COC application on either one. Consequently, the SBA directed GSA to proceed with the solicitation awards and closed its files.

It is the responsibility of the small business firm to file a complete and acceptable COC application with the SBA in order to avail itself of the possible protection provided by statute and regulation against unreasonable determinations by contracting officers as to its responsibility. Greenbrier Industries, Inc., B-191380, Apr. 24, 1978, 78-1 C.P.D. ¶ 315. Under 15 U.S.C. § 637(b)(7), supra, the SBA

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has the conclusive authority to issue or deny a COC. Where a firm does not file for a COC with the SBA, we will not review the contracting officer's determination of nonresponsibility since such a review, in effect, would amount to a substitution of this Office for the agency specifically authorized by statute to review these determinations. Jet International, Inc., B-191183, Feb. 14, 1978, 78-1 C.P.D. ¶ 125.

In view of the fact that the protest raises issues which are not reviewable by this Office, no useful purpose would be served by further development of this case pursuant to our Bid Protest Procedures, 4 C.F.R. part 21 (1984).

Accordingly, we dismiss the protest.

Harry R. Van Cleve
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General Counsel