

Westfall



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Ferrite Engineering Labs

File: B-225997

Date: February 27, 1987

## DIGEST

Where contracting officer refers nonresponsibility determination to the Small Business Administration (SBA), but protester fails to file for a Certificate of Competency, General Accounting Office (GAO) will not review the contracting officer's determination since such a review would in effect substitute GAO for the SBA.

## DECISION

Ferrite Engineering Labs protests the rejection of its bid under invitation for bids (IFB) No. DAAB07-86-B-U506, issued by the Army Communications & Electronics Command, Fort Monmouth, New Jersey, for 275 coaxial circulator transmitters. Ferrite alleges that the Army discriminated against it in finding it nonresponsible.

Ferrite submitted the lowest of the three bids received in response to the IFB, but was determined nonresponsible because it declined to participate in a preaward survey. Since Ferrite is a small business, the contracting officer referred the matter to the Small Business Administration (SBA) for possible issuance of a Certificate of Competency (COC). Ferrite failed to file for a COC within the required time, however, and on December 4, 1986, SBA notified both the protester and the Army that it had closed its file on the matter.

Under 15 U.S.C. § 637(b)(7) (1982), the SBA has conclusive authority to determine the responsibility of a small business by issuing or failing to issue a COC. When a contracting agency finds that a small business is nonresponsible, the burden is on the firm involved to apply for a COC from the SBA in order to avail itself of the protection provided against unreasonable determinations by the contracting

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officer. Ion Exchange Products, Inc., B-218578, et al., July 15, 1985, 85-2 CPD ¶ 52. Where, as in this case, the firm fails to apply for a COC, we will not review the contracting officer's determination of nonresponsibility since such a review would in effect substitute our Office for the SBA, the agency authorized by statute to review nonresponsibility determinations. See Ferrite Engineering Labs, B-222972, July 28, 1986, 86-2 CPD ¶ 122.

Moreover, although Ferrite alleges that the Army discriminated against it, it has produced absolutely no evidence in support of this allegation and there is nothing in the record to support it.

The protest is dismissed.

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