

DOCUMENT RESUME

08101 - [C3348422]

[Allegation That Another Bidder's Fraudulent Actions Resulted in Denial of Certificate of Competency]. E-192188. November 22, 1978. 2 pp.

Decision re: National Investigation Bureau, Inc.; by Milton J. Socolar, General Counsel.

Contact: Office of the General Counsel: Procurement Law I.  
Organization Concerned: Department of the Air Force: Los Angeles  
AFB, CA; Small Business Administration.  
Authority: (P.L. 95-89; 91 Stat. 553; 91 Stat. 561). B-190326  
(1978). B-191380 (1978). B-191766 (1978).

A protester contended that, although it was the apparent low bidder, it was found to be nonresponsible and denied a certificate of competency (COC) by the Small Business Administration (SBA) because of "fraudulent malicious actions" by another bidder. SBA's determinations to issue COCs are not reviewable by GAO, and it was not within GAO's bid protest functions to conduct investigations for establishing the validity of speculative statements about the other bidder's actions. (HTW)

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THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20540

FILE: B-102188

DATE: July 22, 1978

MATTER OF: National Investigation Bureau, Inc.

DIGEST

1. Questions involving failure of SBA to issue certificate of competency are not for consideration by GAO, since by law SBA determinations in such matters are "final."
2. It is not GAO practice, pursuant to bid protest function, to conduct investigations for establishing validity of protester's speculative statements to effect that another bidder fraudulently caused SBA denial of COC to protester.

National Investigation Bureau, Inc. (National), protests against award to any bidder other than itself under invitation for bids No. F04693-78-B-0002, issued by the Air Force to provide security guard services at the Los Angeles Air Force Base. The protester contends that it was the apparent low bidder but was found to be nonresponsible and was denied a certificate of competency (COC) by the Small Business Administration (SBA) on September 8, 1978. National alleges that the SBA determined it not to have the proper credit and capacity to perform the contract due to "fraudulent malicious actions" by another bidder. The protester requests our Office to investigate and make a determination as to its responsibility. Additionally, the protester questions the thoroughness of the SBA investigation in denying National a COC.

As regards the contentions that National is a responsible bidder, that a COC should have been issued to National by the SBA, and that the SBA's investigation into the matter of National's responsibility was not thorough, the provisions of Public Law 95-89, 91 Stat. 553, 502, approved August 4, 1977, vest in the SBA the

authority to make "a final disposition" of questions concerning the responsibility of a small business concern. Since under the law the SBA's decision on such matters is "final," our Office does not review an SBA determination, and cannot require the SBA to issue a COC or to reopen a case when a COC has been denied. Tri Rivers Ambulance; Perman Ambulance Service, Inc., B-190326, April 18, 1978, 78-1 CPD 299; Greenbriar Industries, Inc., B-191380, April 24, 1978, 78-1 CPD 315.

Regarding National's contention that another bidder's fraudulent actions caused the SBA's denial of a COC to the protester and the request that our Office investigate the matter further, it is not the General Accounting Office practice, pursuant to our bid protest function, to conduct investigations for the purpose of establishing the validity of a protester's speculative statements. Fire & Technical Equipment Corp., B-191766, June 6, 1978, 78-1 CPD 415. Accordingly, the request for an investigation is denied. Any further request in this regard must be referred to SBA.

The protest is dismissed.



Milton J. Socolar  
General Counsel