



Comptroller General  
of the United States  
Washington, D.C. 20548

# Decision

**Matter of:** Santee Modular Homes, Inc.

**File:** B-261265

**Date:** May 10, 1995

## DECISION

Santee Modular Homes, Inc., the low bidder, protests any award of a contract to another bidder by the Department of Agriculture (USDA), Natural Resources Conservation Service under invitation for bids (IFB) No. SCS-60-GA-95.

Santee stated that USDA raised some concerns regarding Santee's bid; Santee therefore requested a Certificate of Competency (COC) from the Small Business Administration (SBA). The SBA determined that Santee did not intend to perform a significant portion of the work with its own resources and was therefore ineligible for a COC under 13 C.F.R. § 125.5(b) (1995). That section provides that a "concern shall not be eligible for a Certificate unless it performs a significant portion of the contract with its own facilities and personnel."

The Small Business Act, 15 U.S.C. § 637(b)(6) (1988), gives the SBA, not our Office, the conclusive authority to review a contracting officer's nonresponsibility determinations with respect to small businesses and to determine whether to certify the capability of those small businesses to perform specific government contracts through the issuance of a COC. We do not consider challenges to SBA decisions to issue a COC or to affirm the contracting officer's nonresponsibility determination by not issuing a COC unless there is a showing of possible fraud or bad faith on the part of government officials. See 4 C.F.R. § 21.3(m)(4) (1993); Tamsco, Inc., B-190017, Sept. 3, 1980, 80-2 CPD ¶ 172. Since we view an SBA decision that a bidder is ineligible for a COC because it will not itself perform a substantial portion of the work to be tantamount to an affirmation of the procuring agency's determination of nonresponsibility, Howell Constr. Co. Inc.-Recon., B-237231.2, Nov. 3, 1989, 89-2 CPD ¶ 425, and since the protester has made no showing of possible fraud or bad faith, this is not a matter for our review.

The protest is dismissed.

Michael Golden  
Acting Associate General Counsel