

DECISION



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

FILE: B-203266

DATE: May 28, 1981

MATTER OF: Texas Industrial Coatings Corporation

DIGEST:

Where procuring agency determines small business to be nonresponsible, Small Business Administration declination to issue certificate of competency will not be reviewed by GAO absent showing of fraud or bad faith. Under statute, SBA has conclusive authority to determine all elements of small business firm's responsibility.

Texas Industrial Coatings Corporation (TICC) protests the rejection of the bid it submitted in response to IFB 10PR-ZES-6778 issued by the General Services Administration (GSA). The procurement was a small business set-aside for blackboard paint, pigments, lead, antisweat coating and binding. Although TICC was low bidder on three items, award was not made to it because it was found not to be a responsible prospective contractor. We dismiss the protest.

As a result of a plant facilities survey, GSA found that TICC was incapable of performing this contract because it had an inadequate quality control system and had not established acceptable contact points. (GSA stated that release of shipments under a prior contract was delayed because it had difficulty in reaching TICC by telephone.) GSA, therefore, determined that TICC was nonresponsible. The SBA subsequently affirmed this determination by declining to issue TICC a certificate of competency (COC).

Protest of TICC rejection based on nonresponsibility determination

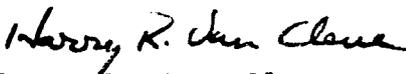
115353

017067

TICC essentially contends that its capability to perform was demonstrated by its satisfactory performance of a previous GSA contract for similar supplies. GSA, however, found TICC's performance of that contract to be inadequate.

Under 15 U.S.C. § 637(b)(7) (1976 & Supp. I, 1977), the SBA has conclusive authority to determine all elements of a small business firm's responsibility. We generally do not review those SBA determinations unless there is a prima facie showing of fraud or that information vital to a responsibility determination has not been considered; see B-192906.2, February 9, 1979, 79-1 CPD 92; JBS Construction Company, B-187574, January 31, 1977, 77-1 CPD 79. TICC has made no such showing.

The protest is dismissed.


Harry R. Van Cleve
Acting General Counsel