

9754 Proc II

GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to:

B-194235

April 9, 1979

*[Allegation That Nonresponsibility Determination By Army
Was Improper]*

co.
Aerofab Company, Inc. DL600000
2355 Goodrich Street
Ferndale, Michigan 48220

Attention: Arthur S. Watkins

Gentlemen:

We have received your letter of February 22, 1979, which was sent to the General Accounting Office (GAO) Regional Office in Detroit. Your letter indicates that you submitted the low bid in response to invitation for bids (IFB) DAAE07-79-B-A023, but that the Army determined your firm to be nonresponsible because of delivery delinquencies on prior Government contracts. You complain that this is not an isolated instance and that Government procurement officials, in making these nonresponsibility determinations, are failing to consider that your delinquency in connection with one item has no affect on your ability to make timely deliveries of other items. You ask GAO to investigate this matter.

In light of your allegations which suggest that the Government, by rejecting your low bids, is incurring unnecessary procurement costs, our audit staff is retaining your letter for use in planning future audit reviews.

However, we point out that it appears you are failing to take advantage of the procedures established by law and regulation to protect small businesses from unreasonable nonresponsibility determinations. Those procedures require referral to the Small Business Administration (SBA) of all contracting officer determinations of nonresponsibility if a small business is involved. The SBA then provides the small business with an opportunity to file for a Certificate of Competency (COC), certifying

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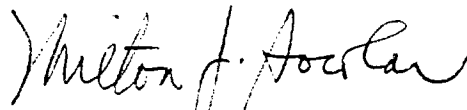


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B-194235

as to the competency (responsibility) of the bidder. If a COC is issued, it is binding on the contracting officer, who can no longer view the bidder as nonresponsible for the specific procurement involved. We understand you have declined to file for a COC. We suggest that, in the future, you consider filing for a COC should the situation about which you complain arise again.

Sincerely yours,

A handwritten signature in cursive script that reads "Milton J. Socolar".

Milton J. Socolar
General Counsel

cc: The Honorable William S. Broomfield
House of Representatives