

CLIENT ALERT

GAO Faults Army For Failure To Pursue Certificate Of Competency

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In *Fabritech, Inc.* (July 27, 2006, <http://www.gao.gov/decisions/bidpro/298247.pdf>), the GAO found that the Army had improperly rejected a small business's proposal based on concern about the offeror's ability to obtain parts from an approved source because this was a determination of non-responsibility that was required to have been referred to the Small Business Administration under the certificate of competency (COC) program. GAO rejected the Army's argument that its rejection was based on the small business's failure to meet a "qualification requirement" that did not have to be referred to the SBA, finding instead that "reasons given for the agency's rejection relate directly to the protestor's ability or capability to perform," which "clearly align" with responsibility elements under the FAR.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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