

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 2054861167
97897

FILE: B-186465

DATE: July 21, 1976

MATTER OF: Medley Tool & Model Co.

DIGEST:

Contracting officer's determination that bidder is nonresponsible based on preaward survey recommendation of "no award" is regarded as affirmed by Small Business Administration's (SBA) denial of certificate of competency (COC) despite extension of credit granted by bank while COC determination was being made. SBA was aware of letter of credit and all information materially affecting determination of nonresponsibility was taken into consideration.

Invitation for bids (IFB) No. DAAB07-76-B-2235, issued by the United States Army Electronics Command, Fort Monmouth, New Jersey, on January 28, 1976, called for support assembly P/O installation kits in quantities of 6,931 to 41,526 each. Medley Tool & Model Co. (Medley) protests the decision of the Army not to make an award to Medley, the low bidder, based on a determination that Medley is not a responsible bidder.

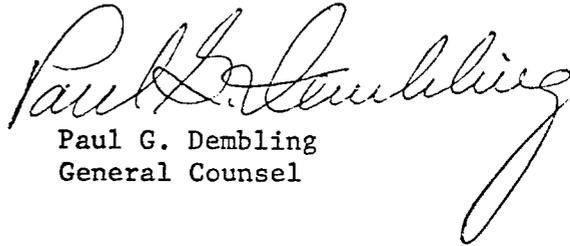
The nonresponsibility determination was based upon a "no award" recommendation made by the Defense Contract Administration Services Region, Philadelphia, Pennsylvania, following a preaward survey in which Medley was rated unsatisfactory in the area of financial capability. In view of the negative survey findings and the protester's small business status, the matter was referred to the Philadelphia regional office of the Small Business Administration (SBA) for review and consideration of the possible issuance of a certificate of competency (COC) pursuant to Armed Services Procurement Regulation § 1-705.4 (1975 ed.). By letter dated April 30, 1976, the Army was advised of SBA's decision not to issue a COC to the protester.

Under 15 U.S.C. § 637(b)(7) (1970), the SBA has the authority to issue or deny a COC. Our Office has no authority to review SBA determinations or to require the SBA to issue a COC. See Environmental Tectonics Corporation, B-185259, February 13, 1976, 76-1 CPD 101. However, we have requested SBA to reopen a case where information materially affecting the determination of nonresponsibility was

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not taken into consideration. Harper Enterprises, 53 Comp. Gen. 496 (1974), 74-1 CPD 31; Kepner Plastics Fabricators, Inc., et al., B-184451, B-184394, June 1, 1976. Further, our Office has held that when a bidder is denied a COC, the contracting officer's determination of nonresponsibility must be regarded as having been affirmed by the SBA. Marine Resources, Inc., B-179738, February 20, 1974, 74-1 CPD 82. The record shows that a letter of credit in the middle five figures was granted to Medley on April 27, 1976, but we have been advised by the Army that SBA was aware of this information and did take it into consideration. The contracting officer states that despite the apparent willingness of The Fidelity Bank to extend credit to the protester, there is not enough evidence to merit a determination of financial responsibility.

Accordingly, the protest is denied.



Paul G. Dembling
General Counsel