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**DECISION**



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

FILE: B-186976

DATE: October 1, 1976

MATTER OF: Materials and Production, Inc.

**DIGEST:**

Contracting officer's determination that protesting concern was nonresponsible--based on negative award recommendation and findings of preaward survey--must be regarded as having been affirmed by Small Business Administration's refusal to issue certificate of competency (COC) to firm and GAO has no authority to require SBA to issue a COC or to reopen case when COC has been denied, especially where there is no showing that either SBA or agency failed to consider all relative information.

Materials and Production, Inc. (MPI), protests the rejection of its low bid on the basis that it is a nonresponsible bidder, under invitation for bids (IFB) D/L 76-9 issued by the U.S. Department of Labor (DOL).

Subsequent to the bid opening, a preaward survey was performed on MPI. The survey resulted in an overall recommendation that no award be made to MPI because it lacked the capacity to perform the required services. In the Determination of Contractor Responsibility dated July 8, 1976, the contracting officer found MPI to be nonresponsible and nonresponsive as to plant capacity to perform services required under the IFB. It was also stated that:

"a. The Contractor's facility is inadequate for a production line industrial type operation which is required.

"b. The Contractor's facility is located in an old renovated farm house and is not air-conditioned to maintain humidity control and dust control.

"c. The facility did not have adequate fire protection equipment.

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"d. The Contractor did not have the capability to perform residual type tests on the microfilm.

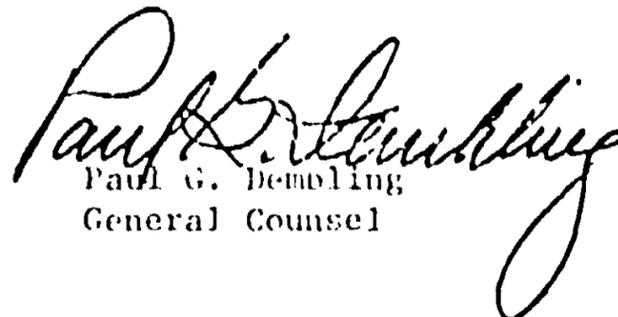
"e. The facility did not have an area for archival storage of film.

"f. The facility had wooden floors on which the equipment was to be placed, with the additional equipment needed, this flooring is not adequate and would vibrate."

In view of the negative survey findings and the protester's small business status, the matter was referred to the Small Business Administration (SBA) for possible issuance of a certificate of competency (COC). By letter dated August 3, 1976, DOL was advised of SBA's decision, based upon its comprehensive analysis of all available information, not to issue a COC to MPI for this solicitation.

Under 15 U.S.C. § 637(b)(7) (1970), the SBA has 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 or to reopen a case when a COC has been denied. Unitron Engineering Company, B-181350, August 20, 1974, 74-2 CPD 112; 51 Comp. Gen. 498 (1972). 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. In view of the circumstances in this case, the contracting officer's determination must also be regarded as having been affirmed by the SBA and that determination is accepted by our Office. Zinger Construction Company, Inc., B-185390, December 16, 1975, 75-2 CPD 397. While MPI has alleged suppression of certain material facts by both the preaward survey team and the SBA, there has been no showing that either the SBA or the agency failed to consider all relative information. Gallery Industries, Inc - Request for Reconsideration, B-185963, June 16, 1976, 76-1 CPD 333; Building Maintenance Specialists, Inc., B-186441, September 10, 1976.

Accordingly, the protest is denied.

  
Paul G. Demoling  
General Counsel