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DECISION



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

FILE: B-188476

DATE: March 25, 1977

MATTER OF: R & O Industries, Inc.

DIGEST:

Small business' capacity to perform anticipated contract is for resolution by contracting officer and by Small Business Administration. Accordingly, protest asserting such capacity is dismissed.

R & O Industries, Inc. (R & O) alleges that it was the low responsible bidder on items 5, 6, 7, 8, 10, 11, 24 and 28 under solicitation FTAN-F2-95107, issued by the Federal Supply Service, General Services Administration (GSA). It protests the possible award of these items to any bidder other than itself. R & O is concerned that the contracting officer on this solicitation may have determined that R & O is not a responsible offeror and thus is ineligible for award. To demonstrate its capacity to perform, R & O has submitted information to GSA and to this Office intended to show its compliance with the terms of another recent GSA contract requiring the delivery of similar items.

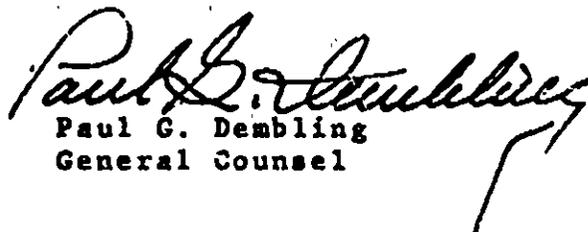
If a bid of a small business concern is to be rejected on the basis that it is nonresponsible for lack of capacity to perform a contemplated contract, normally the matter is for final determination by the Small Business Administration (SBA), which is empowered to issue a Certificate of Competency (COC). Federal Procurement Regulations 1-1.703-2(a). R & O indicates that such a referral has been made in its case.

Under 15 U.S.C. § 637(b)(7)(1970), the SBA has the authority to issue or deny a COC, which conclusively determines the capacity or credit of a small business

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concern for a particular procurement. Indian Made Products Company, B-187461, October 5, 1976, 76-2 CPD 310. Our Office has no authority to review a COC determination, and will not question a contracting officer's determination of nonresponsibility of a small business concern where it has been affirmed by the SBA's denial of a COC. Drexel Industries, Inc., B-18840, November 22, 1976, 76-2 CPD 439. Because the issues raised by R & O's protest appear solely to involve its capacity to perform, further review of this matter by this Office would serve no useful purpose; if the SBA should issue a COC in this instance, thus affirming R & O's capacity, of course, the protest would be moot in any case.

The protest, therefore, is dismissed.


Paul G. Dembling
General Counsel