

DOCUMENT RESUME

02066 - [A1112100]

[Protest against Denial of Certificate of Competency]. B-188099.
April 18, 1977. 2 pp.

Decision re: Information Services Industries; by Paul G.
Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law II.
Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).
Organization Concerned: Department of the Air Force: Bill AF3,
UT; Small Business Administration.
Authority: 15 U.S.C. 637(b) (6-7). E-188110 (1977). B-187574
(1977). B-187504 (1976). B-187505 (1976). E-186412 (1976).
B-187255 (1976).

Offeror protested the Small Business Administration's
(SBA) determination that it was not a small business as required
by the solicitation. SBA's refusal to issue a certificate of
competency was not for consideration and was dismissed, as
conclusive authority to decide the size status of a concern is
vested by law in SBA. (Author/DJH)

02066

DECISION



*J. N. Topoulos
Proc H*
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-188099

DATE: April 18, 1977

MATTER OF: Information Services Industries

DIGEST:

Protest against refusal of Small Business Administration (SBA) to issue certificate of competency is not for consideration where refusal was based on SBA ruling that protester was not a small business for purposes of procurement since conclusive authority to decide size status of a concern is vested by law in SBA.

The subject protest has been filed under request for proposals (RFP) No. F42600-76-R-7234, issued by the Department of the Air Force, Ogden Air Logistics Center, Hill Air Force Base, Utah, alleging that the protester was improperly found not to be a small business as required by the solicitation.

The record shows that on October 29, 1976, the District Director of the Small Business Administration's (SBA) District Office, Los Angeles, determined that the protester was a small business concern for purposes of the solicitation. Subsequently, however, the Air Force contracting officer determined that the protester lacked the capacity and credit necessary to perform the prospective contract and referred the matter to SBA for possible issuance of a certificate of competency (COC).

On December 16, 1976, the Regional Director, SBA Regional Office, San Francisco, California, reversed SBA's District Director and held that the protester was not a small business concern for the purposes of the solicitation, and therefore declined to issue a COC. The protester then appealed such determination and on January 31, 1977, the SBA Size Appeals Board sustained the determination of the Regional Director.

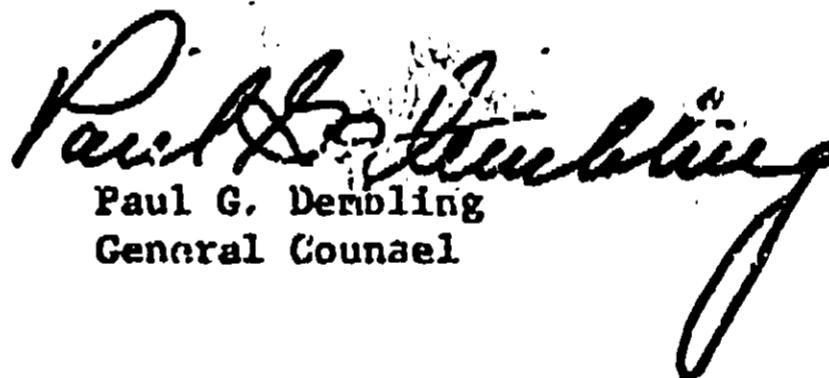
Information Services Industries protests the SBA's refusal to issue a COC and requests that we "allow the SBA to correct the erroneous COC."

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Under 15 U.S.C. 637(b)(7) (1970), the SBA has the authority to issue or deny a COC, and our Office will not review an SBA determination, require issuance of a COC, or reopen a case when a COC has been denied. Crawford Development and Manufacturing, B-188110, March 15, 1977, 77-1 CPD , and cases cited therein. While this Office will review the matter and recommend a reassessment of the situation where it appears that all relevant information has not been considered or where there has been a prima facie showing of fraud, JBS Construction Company, B-187574, January 31, 1977, 77-1 CPD 79, and cases cited therein, neither is the situation here. Rather, the COC was denied because the SBA determined that the protester was not a small business and therefore was not eligible for a COC.

In this regard, the SBA is empowered under 15 U.S.C. § 637(b)(6) (1970), to conclusively determine matters of small business size status for Federal procurement purposes, with the result that size status decisions of the SBA and its Size Appeals Board are not subject to review by this Office. Pacific American Airlines, B-187504, B-187505, October 13, 1976, 76-2 CPD 330; Merritt Enterprises, Inc., et al., B-186412, June 16, 1976, 76-1 CPD 388; Limpio Industries, B-187255, September 30, 1976, 76-2 CPD 301.

Accordingly, the protest is dismissed.


Paul G. Denbling
General Counsel