

DOCUMENT RESUME

02372 - [A1452469]

[Small Business Offeror Found to Be Nonresponsible]. B-188885.  
May 19, 1977. 2 pp.

Decision re: Volare, Inc.; by Paul G. Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services:  
Reasonableness of Prices Under Negotiated Contracts and  
Subcontracts (1904).

Contact: Office of the General Counsel.

Budget Function: National Defense: Department of Defense -  
Procurement & Contracts (058).

Organization Concerned: Defense Logistics Agency; Small Business  
Administration.

Authority: 15 U.S.C. 637(b)(7); B-186751 (1976). A.S.P.R.  
1-705.4(c).

A small-business concern was found to be nonresponsible due to financial difficulties. As the low bidder, it protested the award of a contract to any other bidder, as it had agreed to correct the problems. The Small Business Administration (SBA) was asked by the procuring agency to determine if a certificate of competency could be issued. GAO cannot review a SBA determination of competency. Protest was dismissed. (SS)

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**DECISION**



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

11-15-77  
092

**FILE: B-188805**

**DATE: May 19, 1977**

**MATTER OF: Volare, Inc.**

**DIGEST:**

Where contracting officer has found small business offeror to be nonresponsible and has referred matter to SBA for possible issuance of COC, protest to GAO is dismissed. SBA alone has statutory authority to issue or deny a COC and GAO has no power to review such determinations.

Volare, Inc. (Volare) protests the award to any other bidder of any contract resulting from Invitation for Bids (IFB) DSA100-77-B-0827, issued by the Defense Logistics Agency (DLA). Volare, apparently a small business and the low responsive bidder, was found nonresponsible because of financial difficulties and was thus ineligible for award. Volare states that in order to correct these problems it has merged with another firm.

The matter has been referred by DLA to the Small Business Administration (SBA), pursuant to Armed Services Procurement Regulation § 1-705.4(c), for review and possible issuance of a certificate of competency (COC), which would render Volare eligible for award by certifying its competency as to capacity and credit. Under 15 U.S.C. § 637(b)(7) (1970), the SBA has the authority to issue or deny a COC and our Office has no authority to review such an SBA determination, to require issuance of a COC, or to reopen a case when a COC has been denied. Precision Electronics Labs, B-186751, October 29, 1976, 76-2 CPD 369, and cases cited therein. There is no indication that the SBA has not considered or will not consider the request for a COC.

B-188885

Accordingly, further consideration of Volare's protest by this Office will serve no useful purpose and the protest is dismissed.

*Paul G. Dembling*  
Paul G. Dembling  
General Counsel