

DOCUMENT RESUME

03615 - [A2633742]

[Protest against Determination that the Bidder Was Nonresponsible]. E-189922. September 15, 1977. 1 pp.

Decision re: Air-O-Plastic Corp.; by Paul G. Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law I.
Budget Function: General Government: Other General Government (806).

Organization Concerned: General Services Administration; Small Business Administration.

Authority: 15 U.S.C. 637(b) (7). B-186840 (1976).

The protester objected to the agency's determination that they were a nonresponsible bidder because of their alleged inadequate financial and technical capacity. Since the small business firm was found to be a nonresponsible bidder by the contracting activity, subsequent denial of a Certificate of Competency by the Small Business Administration (SBA) was viewed as affirmation of the nonresponsibility determination. GAO does not review Certificate of Competency determinations and did not require the SBA to issue a Certificate or to reopen the case. (Author/SC)

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DECISION

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

FILE: B-189932

DATE: September 15, 1977

MATTER OF: Air-O-Plastic Corporation

DIGEST:

Where small business concern is found to be nonresponsible bidder by contracting activity, subsequent denial of COC by SBA is viewed as affirmation of nonresponsibility determination, and GAO does not review COC determinations and will not require SBA to issue COC or reopen case absent a showing that material evidence was not considered.

The Air-O-Plastic Corporation protests its rejection under solicitation No. FPOO-E1-49036-A by the General Services Administration, Federal Supply Service, as a nonresponsible bidder because of its alleged inadequate financial and technical capacity.

After the General Services Administration found Air-O-Plastic to be nonresponsible the matter was referred to the Small Business Administration (SBA) for a Certificate of Competency (COC) review. The SBA declined to issue a COC to Air-O-Plastic. Our Office will not question a contracting officer's determination that a small business concern is nonresponsible where that determination has been affirmed by the SBA through the denial of a COC. Further, under 15 U.S.C. § 637(b)(7) (1970), the SBA has the authority to issue or deny a COC, and our Office does not review an SBA determination, require the issuance of a COC, or request the reopening of a case where a COC has been denied and there is no indication that evidence materially affecting the denial was not taken into consideration. Drexel Industries, Inc., B-186840, November 22, 1976, 76-2 CPD 439.

Accordingly, the protest is dismissed.

Paul G. Dembling
Paul G. Dembling
General Counsel