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**DECISION**



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

FILE: B-195344 DATE: August 7, 1979  
MATTER OF: Brimstone Equipment Co.

**DIGEST:**

There is no basis for GAO to direct award to small business concern found nonresponsible by contracting officer since question of validity of such determination must be referred to Small Business Administration for consideration under certificate of competency procedures.

Brimstone Equipment Co. (Brimstone) protests the award of any contract to other than itself under request for proposals No. F09603-79-R-0611, issued by Warner Robbins Air Force Base (Air Force), Georgia.

Brimstone contends that the Air Force is being unreasonable in requiring Brimstone to apply to the Small Business Administration for a certificate of competency (COC). Brimstone argues that the Air Force has performed positive preaward surveys on its firm in the past and that there has been no cooperation on the part of the Air Force in determining Brimstone's responsibility for the instant procurement. Therefore, Brimstone requests that our Office direct the Air Force to make an award to it.

The COC requirement stems from the statutory protection afforded small businesses when a contracting officer determines that such a concern is not a responsible bidder. 15 U.S.C. § 637(b)(7) (1976), as amended by Pub. L. No. 95-89, § 501, 91 Stat. 561 (1977). Whenever a contracting officer makes such a determination with respect to a small business he must refer the matter to the SBA, which has conclusive authority to decide the question by issuing or denying a COC. R&O Industries, Inc., B-188476, March 25, 1977, 77-1 CPD 215.

*DK 02532*

*AGC 0002*

*AGC 0003*

*Contract award protests  
Criticizes of competency  
Bidder responsibility  
Small business  
contractors*

[Request for Contract Award]

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We generally do not review those SBA determinations unless there is a prima facie showing of fraud or that information vital to a responsibility determination has not been considered; see Old Hickory Services, B-192906.2, February 9, 1979, 79-1 CPD 92; JBS Construction Company, B-187574, January 31, 1977, 77-1 CPD 79.

In view thereof, there is no basis for our Office to take the action requested and the protest is dismissed.



Milton J. Socolar  
General Counsel