

**DECISION**

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

61431

FILE: B-187050

DATE: September 1, 1976

98091

MATTER OF: Arsco, Inc.

## DIGEST:

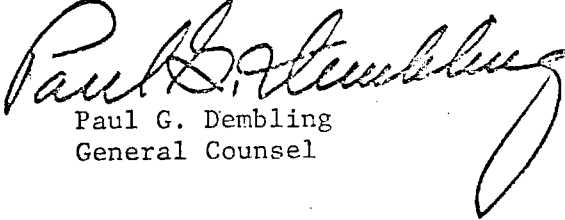
Contracting officer's determination that bidder was nonresponsible--based on negative award recommendation and findings of preaward survey--must be regarded as having been affirmed where bidder failed to file application with SBA for possible issuance of COC, since such failure is analogous to SBA refusal to issue COC.

Arsco, Inc., protests the failure of the General Services Administration (GSA), Region 2, to award it a janitorial contract under invitation for bids No. 2PBO-MB-1078. The GSA found Arsco to be financially nonresponsible. Because Arsco is a small business, the matter was forwarded to the Small Business Administration (SBA) pursuant to Armed Services Procurement Regulation § 1-705.4(c)(ii) (1975 ed.) for consideration of the issuance of a certificate of competency (COC). Apparently Arsco did not file a COC application but instead asked for waiver of the COC procedure. In view thereof, the SBA advised the GSA that it had closed its file on Arsco without taking any action. Award of the contract was made to another bidder notwithstanding the Arsco protest to our Office.

We have refused to question the contracting officer's determination of nonresponsibility where the bidder has failed to furnish the SBA the documentation which would be required in order to determine whether a COC should be issued. B-174970, February 29, 1972. Since the decision whether to apply for the issuance of a COC is solely under the control of the bidder, we believe that it is proper to find such a failure analogous to a refusal by the SBA to issue a COC. Consequently, we believe that the failure to apply for a COC must be regarded--as with the denial of a COC by the SBA--as an affirmation of the contracting officer's determination of nonresponsibility. See Marine Resources, Inc., B-179738(1), February 20, 1974, 74-1 CPD 82.

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Accordingly, we must accept as valid the determination of nonresponsibility, Environmental Tectonics Corporation, B-183450, November 13, 1975, 75-2 CPD 301, and the protest is denied.

  
Paul G. Dembling  
General Counsel