

DOCUMENT RESUME

03017 - [A2093188]

[Protest to Allegation of Bidder Nonresponsibility and Denial of Certificate of Competency]. B-188758. July 26, 1977. 3 pp.

Decision re: Guideline Maintenance Co.; by Robert P. Keller, Deputy Comptroller General.

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

Organization Concerned: General Services Administration.  
Authority: 15 U.S.C. 637(b). P.P.R. 1-1.708.2. 13 C.F.R. 124.8-16. B-188319 (1977).

GAO does not review merits of denials to bidders of Certificates of Competency by the Small Business Administration (SBA). Further, no information proving the bidder's responsibility was submitted prior to award. The protest was denied. Where solicitation provided for separate multiple contract awards, agency should inform SBA that bidder's responsibility is to be considered on basis of performing all, each, or several contracts for which bidder is eligible.  
(Author/DJB)

3188

03017

R.

P. L. II  
Little



**DECISION**

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

FILE: B-188758

DATE: July 26, 1977

MATTER OF: Guideline Maintenance Company

**DIGEST:**

1. Where small business concern is found to be nonresponsible bidder by procuring activity, subsequent denial of Certificate of Competency (COC) by SBA must be viewed as affirmation of nonresponsibility determination. GAO does not review merits of COC determination, or require SBA to issue COC where COC has been denied. Moreover, between the time the COC was denied and the contract was awarded the record does not indicate that any information probative as to bidder's responsibility came to the contracting officer's or SBA's attention.
2. Where agency refers question of bidder's nonresponsibility to SBA in circumstances where bidder is potential contractor for two or more items under solicitation contemplating multiple contract awards, agency should indicate to SBA that bidder's responsibility should be measured against its capacity and credit to perform all of the contracts; each of the contracts; or, where appropriate, combinations of contracts comprising less than all of them.

Guideline Maintenance Company (Guideline) has protested the General Services Administration's (GSA) rejection of its firm as nonresponsible under GSA's solicitation GSW-8FWR-70006 for three carpet cleaning contracts in three service areas of GSA Region IX. Since Guideline was a small business, the contracting officer forwarded the question of Guideline's nonresponsibility due to a lack of capacity to the Small Business Administration on March 1, 1977, pursuant to the requirement of Federal Procurement Regulations (FPR) § 1-1.708.2 (1964) in order to give Guideline the opportunity to apply for a Certificate of Competency (COC) under 15 U.S.C. § 637(b) (1970) and 13 C.F.R. § 124.416 (1976). The SBA denied Guideline's request for a COC on March 20, 1977, and on March 31, 1977, GSA awarded three separate contracts for the groups in each of the three service areas in which Guideline had been the low bidder.

B-1887:8

We do not review allegations that an agency's finding of nonresponsibility was improper where, as here, the bidder has subsequently been denied a COC by the SBA. Inflated Products Company, Incorporated, B-188319, May 25, 1977, 77-1 CPD 365. Nor does this appear to be a case where, subsequent to SBA's declining to issue a COC but before award, additional information probative as to the bidder's responsibility has come to light for the first time which would warrant our recommending that such information be considered before awarding the contract. Inflated Products, supra.

However, it appears from the record that while the contracting officer considered Guideline's responsibility for each of the individual contracts prior to the COC referral, the record indicates that SBA did not consider Guideline's eligibility for award of three individual contracts but only considered Guideline's capacity to perform all three contracts simultaneously.

By letter of March 29, 1977 to Guideline, the SBA noted the following reason for Guideline's being denied a COC:

"Since this is a requirements contract, the possibility exists that all three areas would require cleaning at one time. \* \* \*"

The solicitation, however, provided for separate awards for each Group ("A"-Carpet Cleaning; "B"-Rubber or Vinyl-Backed Carpet Installation; and "C"-Hard Backed Carpet Installation) in each Service Area (geographical areas within a 20 mile radius of a city or installation listed in the Bid Schedule). Consequently, Guideline, if it did not have the capacity to perform Group "A" services in the three Service Areas for which it was low bidder, might have had the capacity to perform in one of the three areas or the three combinations of any two of the areas. In short, Guideline's eligibility for a COC should have been determined on the basis of seven possible combinations of awards, whereas it appears to have been considered as to only one of them. (The fact that Guideline's capacity was only considered on the basis of performing all three contracts simultaneously was confirmed by an informal conversation with SBA.)

In future cases, we recommend that where a bidder is eligible for multiple contract awards, the contracting officer point out to SBA that a bidder's responsibility is to be considered on the basis of the bidder's ability to perform (1) all contracts for which a bidder is eligible; (2) each contract for which a bidder is eligible; and (3) combinations of contracts totaling less than all contracts for which the bidder is eligible.

D-188758

However, in this case we think the contracting officer had a right to rely on the SM's denial of a COC to Guidalina. Accordingly, the protest is denied.

  
Deputy Comptroller General  
of the United States