

DECISION

8267

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

FILE: B-193121

DATE: November 3, 1978

MATTER OF: Keco Industries, Inc.

DIGEST:

GAO will not review SBA determination to issue COC, which is conclusive with respect to firm's responsibility. Therefore, request for review should be referred to SBA.

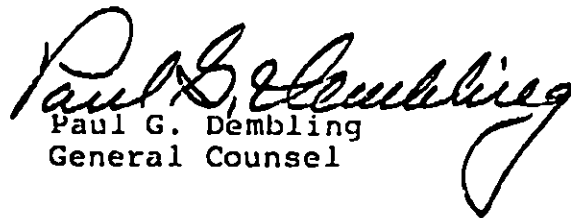
Keco Industries, Inc. (Keco), protests the award of a contract by the United States Army to Wedj, Inc., under solicitation No. DAAK01-78-S-1237. The award was made after a certificate of competency (COC) regarding Wedj's responsibility was issued by the Small Business Administration (SBA). Keco presents certain information concerning Wedj's association with another firm, Frigitemp Corporation, which Keco contends was not reviewed by either the contracting officer or the SBA. Keco argues that such information should have had a serious adverse impact upon the consideration of Wedj's responsibility and, therefore, upon the propriety of the issuance of the COC.

Our Office will not review an SBA determination under 15 U.S.C. § 637(b)(7) (1976), as amended by Pub. L. No. 95-89, § 501, 91 Stat. 533, which gives that agency the authority to issue or deny a COC. Crawford Development and Manufacturing, B-188110, March 15, 1977, 77-1 CPD 193. Therefore, the protester should refer the request for review to the SBA.

Keco also states that it has been advised by the contracting officer that notwithstanding the impact of the subject information, the Army is bound under the procurement regulations by the SBA's issuance of the COC. Keco contends that the COC is not binding on the Army absent the denial of an appeal by the contracting officer taken

under Armed Services Procurement Regulation (ASPR) § 1-705.4(f) (1976 ed.), and unless all relevant information is considered. However, the cited regulation provides a method by which a contracting officer who has substantial doubts as to a concern's ability to perform can appeal a tentative decision by the SBA to issue a COC. See B-170102, December 2, 1970. Whether an appeal is taken is a matter within the discretion of the contracting officer. The actual issuance of a COC is conclusive with respect to the firm's responsibility, 15 U.S.C. § 637(b)(7)(C) (1976), as amended, subject only to reassessment by the SBA if deemed appropriate.

The protest is otherwise dismissed.


Paul G. Dembling
General Counsel