

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

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FILE: B-186480

DATE: July 21, 1976

MATTER OF: Braswell Shipyards, Inc.

DIGEST:

Contracting officer's determination that protester was nonresponsible must be regarded as affirmed by Small Business Administration's refusal to issue certificate of competency and GAO has no authority to review SBA determination or to require SBA to issue COC or to reopen case when COC is denied.

Braswell Shipyards, Inc. (Braswell), protests the rejection of its low bid submitted under IFB DACW61-76-B-0046, issued by the Philadelphia District Corps of Engineers. The protester's bid was rejected because the contracting officer found the company to be nonresponsible based on pre-award surveys conducted by the Philadelphia District and the Department of the Navy which recommended that no award be made to the protester. Both surveys questioned Braswell's estimates of existing and available resources which, when considered in light of the proposed schedule for completion, Braswell's inexperience in dredge repairs, and its current workload, suggested that the protester lacked a full understanding of the work involved.

The question of Braswell's capacity was referred to the Small Business Administration (SBA) pursuant to Paragraph 1-705.4(c) of the Armed Services Procurement Regulation. By letter dated May 6, 1976, the SBA declined to issue a Certificate of Competency (COC).

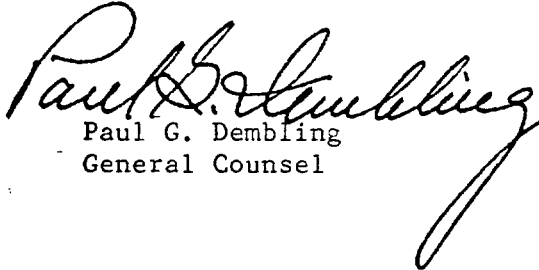
Under 15 U.S.C. § 637(b)(7) (1970), the SBA has the authority to certify conclusively to Government procurement officials regarding the competency, as to capacity and credit, of any small business concern to perform specific Government contracts. Contrary to the protester's contention, our Office has no authority to review SBA determinations or to require the SBA to issue a COC or to reopen a case when a COC has been denied. Unitron Engineering Company, B-181350, August 20, 1974, 74-2 CPD 112. Further, we have held that when an offeror is denied a COC, the contracting officer's

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determination of nonresponsibility must be regarded as having been affirmed by the SBA, Marine Resources, Inc., B-179738 (1), February 20, 1974, 74-1 CPD 82.

The protester also has objected to the agency's award of this contract prior to resolution of its protest on the basis that we were not provided a written finding by the agency head, his deputy or an assistant secretary specifying the factors which would not permit a delay in the award. However, this Office was telephonically notified in accordance with our current Bid Protest Procedures, 4 C.F.R. 20.4 (1976), of the agency's decision to award this contract during the pendency of a protest. The notification referred to by the protester has been revised by our current procedures.

Accordingly, the protest is dismissed.


Paul G. Dembling
General Counsel