

DECISION



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

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FILE: B-184973

DATE: July 16, 1976

MATTER OF: Trilon Educational Corporation

DIGEST:

Rejection of low small business bid where SBA subsequently declined to issue bidder certificate of competency is not matter for resolution pursuant to GAO's bid protest function. Moreover, record does not substantiate protester's contention that administrative processes were obstructed by contracting officer's exertion of undue pressure.

This is a protest by the Trilon Educational Corporation (Trilon) concerning the rejection of its low bid under IFB No. N00039-75-B-0166, issued by the Naval Electronic Systems Command (NAVELEX) for transmitting buoys.

The contracting officer was unable to find that Trilon was a responsible bidder because of the disparity between Trilon's unit bid price of \$489; all other unit bid prices, which ranged from \$734.50 to \$3,214.50; and the previous contract price of \$805.59. Even though Trilon verified its intended price, the contracting officer believed that Trilon could not withstand a projected substantial loss. He rejected the pre-award survey's affirmative recommendation for award because he believed the survey was inadequate with regard to credit. Since Trilon was a small business concern the matter was referred to the Small Business Administration (SBA) pursuant to Armed Services Procurement Regulation (ASPR) 1-705.4 (1975) for a determination as to whether a Certificate of Competency (COC) would be issued. Pursuant to 15 U.S.C. 637(b)(7) (1970), SBA is empowered to certify conclusively to Government procurement officials with respect to the competency, as to capacity and credit, of any small business concern to perform specific Government contracts. SBA declined to issue Trilon a COC for this contract and this protest ensued.

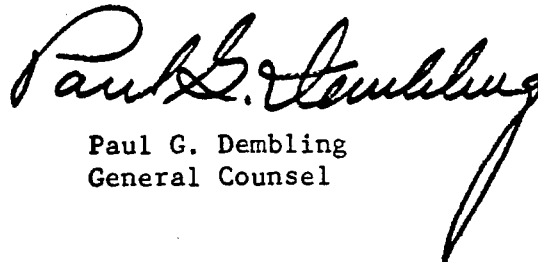
Trilon believes its low bid was improperly rejected, contending that the denial of a COC was based mainly on a temporary delay by the Government in processing contract payments. It argues that the affirmative pre-award survey should not have been disregarded and

that the contracting officer applied unreasonable pressure on the survey members and on the SBA to effect the rejection of Trilon's bid.

Ordinarily, this Office does not involve itself in protests concerning a rejection of a small business bid in which SBA has refused to issue a COC. B-176804, September 6, 1972. This is because the statute which established the administrative process for conclusively determining the capacity and credit of small business concerns places the primary jurisdiction therefor in the SBA. 15 U.S.C. 637(b)(7) (1970). Accordingly, this Office does not review SBA determinations in such matters and we have no authority to require SBA to reopen a case or to issue a COC. Unitron Engineering Company, B-181350, August 20, 1974, 74-2 CPD 112.

While Trilon suggests that the administrative processes may have been obstructed by the exertion of undue pressure by the contracting officer, the record before us contains no evidence of impropriety in this regard. Moreover, in referring such matters to SBA, the procuring contracting officer was required to maintain close liaison with SBA and to furnish SBA pertinent technical and financial information, among other information. ASPR 1-705(c)(iii) and (d) (1975 ed.). The record furnished us by SBA shows that SBA did not abdicate its responsibility in this matter. Rather, SBA declined to issue a COC based on a comprehensive analysis of available information.

Accordingly, any further review of this matter would serve no useful purpose.


Paul G. Dembling
General Counsel