

**DECISION**



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

60770

FILE: B-185963

DATE: April 16, 1976

MATTER OF: Gallery Industries, Inc.

99051

**DIGEST:**

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, and GAO has no authority to review COC determination, to require SBA to issue COC, or to reopen case when COC has been denied.

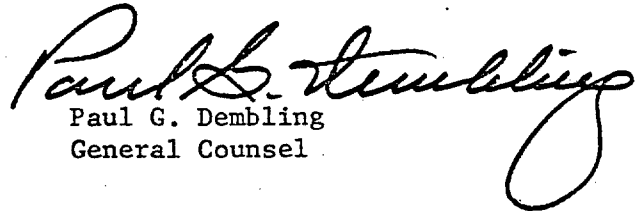
Gallery Industries, Inc. (Gallery), protests against award of a contract by the Naval Ordnance Station, Louisville, Kentucky, to any other bidder under solicitation No. N00197-76-B-0036.

Gallery's low bid was rejected by the contracting officer on the basis that Gallery was not a responsible bidder after review of the recommendation and findings of the preaward survey team. Since Gallery was a small business concern, the contracting officer referred the question of Gallery's capacity and/or credit to the Small Business Administration (SBA) in accordance with Armed Services Procurement Regulation (ASPR) § 1-705.4(c) (1975 ed.). On February 4, 1976, SBA declined to issue Gallery a certificate of competency (COC). Gallery protested to our Office contending the actions taken by the Navy and SBA were erroneous.

We have consistently held that the refusal by SBA to issue a COC must be viewed as an affirmation of the contracting officer's negative determination. Additionally, under 15 U.S.C. § 637(b)(7) (1970), the SBA has the authority to issue or deny a COC and our Office has no authority to review an SBA determination, to require issuance of a COC, or to reopen a case when a COC has been denied. Zinger Construction Company, Inc., B-185390, December 16, 1975, 75-2 CPD 397, and cases cited in text.

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Consequently, our Office is unable to be of any assistance in the matter and the protest is denied.

  
Paul G. Dembling  
General Counsel