

DOCUMENT RESUME

03645 - [A2723921]

[Protest against Determination that the Bidder Was Nonresponsible]. E-190064. September 23, 1977. 2 pp.

Decision re: Verco Industries; by Paul G. Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).  
Contact: Office of the General Counsel; Procurement Law II.  
Budget Function: National Defense: Department of Defense -  
Procurement & Contracts (058).  
Organization Concerned: Department of the Army: Army Armament  
Research and Development Command, Dover, NJ.  
Authority: (P.L. 95-89, sec. 501; 91 Stat. 553; 15 U.S.C.  
637(b)(7), as amended). A.S.R. 1-705.4(c). B-185259  
(1976). E-184394 (1976).

The protester objected to the determination that it was nonresponsible based on a negative preaward survey. The issuance of a certificate of competency by the Small Business Administration (SBA) was conclusive for procuring officers and was not to be reviewed by GAO. SBA will not be requested to reopen a certificate of competency case unless it can be shown that information materially affecting the determination of nonresponsibility was not available for consideration.  
(Author/SC)

3921

03645

General  
P.F. W.

**DECISION**



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

**FILE: B-190064**

**DATE: September 23, 1977**

**MATTER OF: Verco Industries**

**DIGEST:**

1. GAO does not review SBA determinations or require SBA to issue a COC even if it disagrees with SBA's judgment because, by law, issuance of a COC by SBA is conclusive on procuring officers.
2. SBA will not be requested to reopen COC cases unless it can be shown that information materially affecting the determination of nonresponsibility was not before it for consideration. Where protester merely disagrees with SBA's determination, GAO does not recommend reopening of COC proceeding.

Verco Industries (Verco) protests the award of a contract by the U.S. Army Armament Research and Development Command, Dover, New Jersey, to any other bidder under Invitation for Bids No. DAAK-10-77-B-0021.

Verco was found nonresponsible by the contracting officer on August 3, 1977 based on a negative pre-award survey dated July 18, 1977. Since Verco was a small business concern, the contracting officer referred the question of Verco's capacity and/or credit to the Small Business Administration (SBA) in accordance with Armed Services Procurement Regulation (ASPR) § 1-705.4(c) (1976 ed.). By letter dated August 31, 1977, the SBA notified Verco that it was denying the protester's request for a certificate of competency (COC).

Verco requests that our Office set aside the SBA's decision and that an award be made to Verco. It argues that it arbitrarily is being denied award because of a failure to fully understand how it intends to meet the Government's requirements.

B-190064

Under 15 U.S.C. § 637(b)(7) (1970), as amended by Pub. L. No. 95-89, § 501, 91 Stat. 553, the SBA has authority to issue or deny a COC. Our Office does not review SBA determinations or require the SBA to issue a COC even if we disagree with SBA's judgment because, by law, issuance of a COC by SBA is conclusive on procuring officers. See Environmental Tectonics Corporation, B-185259, February 13, 1976, 76-1 CPD 101. We have requested SBA to reopen a case where information materially affecting the determination of nonresponsibility was not previously considered. Kepper Plastics Fabricators, Inc., et al., B-184394, June 1, 1976, 76-1 CPD 351. However, we do not consider that course of action appropriate in this case because Verco merely disagrees with SBA's judgment. Verco indicates that it provided the SBA with extensive information pertaining to the matter under consideration and that Verco personnel met with representatives of the SBA to review the data submitted.

Accordingly, the protest is dismissed.

  
Paul G. Dembling  
General Counsel