



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Maryland Assemblies, Inc.

File: B-233064

Date: November 14, 1988

DIGEST

The General Accounting Office will not review a protest concerning a determination of the Small Business Administration (SBA) to not issue a certificate of competency (COC) except upon a showing of possible fraud or bad faith or disregard of vital information bearing on the firm's responsibility. An agency's failure to forward the result of a second preaward survey to the SBA which reached essentially the same conclusions as the one initially forwarded to SBA does not provide a basis for a review of SBA's refusal to issue a COC.

DECISION

Maryland Assemblies, Inc. (MAI) protests the award of a contract to Hitech, Inc. under request for proposals (RFP) No. DAAA09-86-R-1435, issued by the U.S. Army Armament Munitions and Chemical Command (AMCCOM) for demolition charges. MAI claims that AMCCOM's circumvention of the referral procedures for certificates of competency (COC) denied the company due process before the Small Business Administration (SBA).

We dismiss the protest.

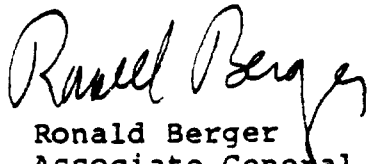
After evaluation of proposals, AMCCOM conducted a preaward survey of MAI, the apparent low offeror. The preaward survey was negative in the area of plant safety and based on the survey, the contracting officer determined MAI to be a nonresponsible prospective contractor for this procurement. Because MAI is a small business, AMCCOM referred this determination along with the negative preaward survey results to the SBA pursuant to the COC procedures. See Federal Acquisition Regulation (FAR) § 19.602-1(a). The SBA declined to issue a COC. MAI claims that it did not receive fair COC consideration because AMCCOM did not

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forward the results of a second preaward survey performed several months later.

The SBA has statutory authority to determine the responsibility of prospective contractors that are classified as small businesses. 15 U.S.C. § 637(b)(7) (1982). This Office will review a COC determination only upon a showing that government officials may have acted fraudulently or in bad faith or willfully disregarded information vital to the responsibility determination. See PBR Electronics, Inc., B-228369, Oct. 16, 1987, 87-2 CPD ¶ 369. We have no basis to conclude that the SBA did not have all relevant information. The second survey produced essentially similar results concerning plant safety. Accordingly, the agency's apparent failure to forward this information to the SBA did not, in our view, prejudice MAI. We therefore have no basis upon which to question SBA's refusal to issue a COC.

The protest is dismissed.



Ronald Berger
Associate General Counsel