

DECISION

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

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FILE: B-185390

DATE: December 16, 1975

MATTER OF: Zinger Construction Company, Inc.

DIGEST:

Contracting officer's determination that protesting concern was nonresponsible for procurement--based on negative award recommendation and findings of pre-award survey--must be regarded as having been affirmed by Small Business Administration's refusal to issue certificate of competency to concern.

On November 20, 1975, a protest was received from Zinger Construction Company, Inc., against the rejection of its low bid under invitation for bids (IFB) DAAA22-76-B-0103, issued by Watervliet Arsenal, Department of the Army.

The Department advises us that Zinger's low bid was rejected because the contracting officer for the purchase found the company to be nonresponsible after review of, and concurrence in, the recommendation and the findings of a pre-award survey team. The survey team recommended that "no-award" be made to the company based on unsatisfactory ratings assigned the company in production capability, plant facilities and equipment, purchasing and sub-contracting, and ability to meet required schedule.

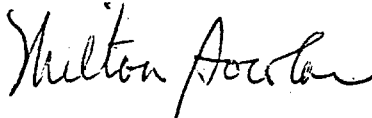
After the nonresponsibility determination was made, the contracting officer referred the question of Zinger's competency to do the work to the Small Business Administration (SBA) in accordance with Armed Services Procurement Regulation (ASPR) § 1-705.4(c) (1975 ed.). By letter dated November 18, 1975, SBA advised the contracting officer that it had declined to issue the company a certificate of competency (COC).

Under 15 U.S.C. § 637(b)(7) (1970), the SBA has the authority to issue or deny a COC. 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; 51 Comp. Gen. 448 (1972). Further, our Office has held that when an offeror

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is denied a COC, the contracting officer's 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) even though the denial was made for reasons other than those relied on by the contracting officer in his nonresponsibility determination (B-175502, July 26, 1972). Consequently, the contracting officer's determination here must be regarded as having been affirmed by the SBA and the determination must be accepted by our Office. See Environmental Tectonics Corporation, B-183450, November 13, 1975.

Protest denied.

for 
Paul G. Dembling
General Counsel