

DOCUMENT RESUME

02667 - [A1672670]

[Bidder Failure to File Certificate of Competency Application Affirms Nonresponsibility]. B-188974. June 8, 1977. 2 pp.

Decision re: Ruffolo's Laundry and Dry Cleaning, Inc.; 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: General Government: Other General Government (806).

Organization Concerned: Department of the Navy: Naval Regional Procurement Office, Philadelphia, PA; Small Business Administration.

Authority: A.S.P.R. 1-705.4(c). B-174970 (1972). B-187050 (1976). B-183450 (1975).

Navy determination that a firm was nonresponsible was protested. The firm failed to file an application with the Small Business Administration (SBA) for possible issuance of a Certificate of Competency (COC), and such a failure was analogous to SBA refusal to issue COC. (Author/QM)

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DECISION

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

FILE: B-188974

DATE: June 8, 1977

MATTER OF: Ruffolo's Laundry and Dry Cleaning, Inc.

DIGEST:

Contracting officer's determination that bidder was non-responsible--based on negative award recommendation and findings of preaward survey--must be regarded as having been affirmed where bidder failed to file application with SBA for possible issuance of COC, since such failure is analogous to SBA refusal to issue COC.

Ruffolo's Laundry and Dry Cleaning, Inc. (Ruffolo's) protests the failure of the Naval Regional Procurement Office, Philadelphia, Pennsylvania (Navy) to award it a laundry service contract under invitation for bids No. N00140-77-B-0511. The Navy found Ruffolo to be nonresponsible because it lacked the capacity to perform the contract. Because Ruffolo is a small business, the matter was forwarded to the Small Business Administration (SBA) pursuant to Armed Services Procurement Regulation § 1-705.4(c)(11) (1976 ed.) for consideration of the issuance of a certificate of competency (COC). Apparently Ruffolo did not file a COC application within the required time limits. In view thereof, the SBA advised the Navy that it had closed its file on Ruffolo without taking any action.

We have refused to question the contracting officer's determination of nonresponsibility where the bidder has failed to furnish the SBA the documentation which would be required in order to determine whether a COC should be issued. B-174970, February 29, 1972. Since the decision whether to apply for the issuance of a COC is solely under the control of the bidder, we believe that it is proper to find such a failure analogous to a refusal by the SBA to issue a COC. Consequently, we believe that the failure to apply for a COC must be regarded--as with the denial of a COC by the SBA--as an affirmation of the contracting officer's determination of nonresponsibility. See Arsco, Inc., B-187050, September 1, 1976, 76-2 CPD 214.

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Accordingly, we must accept as valid the determination of nonresponsibility, Environmental Tectonics Corporation, B-183450, November 13, 1975, 75-2 CPD 301, and the protest is denied.

Paul G. Dembling
Paul G. Dembling
General Counsel