



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

30879

B-177893

May 7, 1973

Corcoran, Foley, Youngman & Rome  
Attorneys at Law  
1511 K Street, N.W.  
Washington, D.C. 20005

Attention: James P. Clowes, Esq.

Gentlemen:

We refer to your letter of February 9, 1973, protesting on behalf of Consultants International, Inc. (CI), against the award of a contract to any other firm under Request for Proposals No. DAMO3-73-R-0046, issued by the Army Munitions Command, Joliet, Illinois.

The basis of your protest is that CI should have been awarded the contract with or without a Certificate of Competency (COC). In order for the procuring activity to make a proper award, section 1-904.1 of the Armed Services Procurement Regulation (ASPR) requires the contracting officer to affirmatively find that the prospective contractor is responsible. If the proposal of a small business concern is to be rejected solely because the contracting officer has determined the concern to be nonresponsible as to financial capacity, as in the case here, the contracting officer is required, pursuant to ASPR 1-705.4(c), to submit the matter of the contractor's responsibility to the Small Business Administration (SBA) for the possible issuance of a COC.

Since our Office is not authorized to review an SBA determination in such matters we may not question SBA's denial of a COC to your client. B-176304, September 6, 1972. In addition, we have long recognized that when a bidder's application for issuance of a COC is denied by SBA, which makes its own further inquiry and analysis of the information obtained, the refusal of the SBA to issue the COC must be regarded as persuasive with respect to the competency of the bidder and the denial thereof as an affirmation of the contracting officer's determination of nonresponsibility. 43 Comp. Gen. 228 (1963), 51 Comp. Gen. 448 (1972).

[Nonresponsibility Determination by Contracting  
Officer] 715583 • 092 298

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In view of the foregoing, and in the absence of any evidence of fraud or bad faith, we will not question the contracting officer's determination of nonresponsibility. Accordingly, your protest on behalf of CI is denied.

Sincerely yours,

Paul G. Dembling

For the Comptroller General  
of the United States