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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D C 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

090243

March 8, 1978

Mr Edward H. Lewis
Associate Administrator for
Procurement Assistance
Small Business Administration

Dear Mr. Lewis:

The General Accounting Office has surveyed the Small Business Administration's (SBA's) Certificate of Competency (COC) program in the Boston and New York regions to determine how well the program serves the interests of small business

The COC program is authorized by Section 8(b)(7) of the Small Business Act of 1953, as amended. The program's purpose is to assure small business fair treatment when bidding on Government contracts. Under this legislation, SBA may investigate when contracting officers refuse to award a contract to a small business low bidder because they believe the business lacks the capacity (quality, quantity, or time requirements), or credit (financial capacity) to perform or fails in other respects to meet the requirements of a responsible bidder. SBA's certification of the business requires the contracting officer to make the award to the appellant firm

When a small business low bidder is rejected for a Government contract, the contracting officer refers the matter to the SBA regional office where the contractor is located and withholds the contract for 15 working days to allow time for the COC process. If a firm applies for a COC, a designated SBA district office reviews the small business' application and sends a team to make an on-site survey of the firm's facilities, capacity, and credit

During fiscal year 1976, Government contracting officers made 1,028 referrals to SBA. SBA received 439 applications from small business and issued 242 certificates. The SBA New York Regional Office was the most active in fiscal year 1976, receiving 222 referrals and issuing 60 certificates. The Boston Regional Office received 42 referrals and issued 13 certificates

We interviewed SBA officials and small businesses in the Boston and New York regions, and Federal contracting officials at three major

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procurement activities in Massachusetts Electronic Systems Division, Hanscom Air Force Base, General Services Administration, Region I, and Transportation Systems Center, Department of Transportation. In addition, we reviewed program legislation, regulations, statistics, and files at the locations visited.

The program has apparently assisted many small businesses which otherwise would have been denied Government contracts. In turn, the businesses have successfully completed most contracts. The overall default rate since the beginning of the program for businesses certified and subsequently awarded contracts was about 6 percent through fiscal year 1976. Only 195 of 3,331 contracts have been terminated for default, according to SBA figures. Contracting agency officials we interviewed were generally satisfied with contractor performance. We believe, however, two areas warrant SBA's attention.

APPLICATION RATE FOR CERTIFICATES OF COMPETENCY

Less than half of the small businesses potentially eligible for a COC actually apply. From fiscal year 1969 through 1976, SBA received 8,943 referrals to the COC program from contracting agencies. Of these, 3,627, or about 41 percent, resulted in applications for a certificate. SBA officials in Boston and New York stated that most firms which do not apply do not volunteer their reasons to SBA, and SBA does not attempt to formally gather this type of information.

To determine why firms have not applied for a COC when given the opportunity, we contacted 21 small businesses referred to SBA's Boston and New York offices in fiscal year 1976. Of these, 12 firms did not apply because they realized later they could not meet contract specifications. The other 9 firms did not apply because they believed it would involve too much effort and expense even though, upon further questioning, 5 of the 9 firms said that they were not familiar with the application requirements and were not sure what the effort and expense would be.

Although these figures are not large, we believe they indicate that some of these firms might have applied for a certificate had they been fully aware of program requirements. The information required by SBA, such as past contract performance, description of facilities and equipment, cost analysis and personnel, would seem readily available to the small businessman. In addition, seven other firms that had completed COC contracts in fiscal year 1976 said they would apply again for a COC if the opportunity arose. Accordingly, we believe SBA should establish procedures for regularly obtaining and analyzing the reasons why firms do not apply for certificates. Knowing the reasons

would allow SBA to devise ways to encourage and assist small businesses to apply and, perhaps, improve the application rate.

NOTICES OF URGENCY

When a small business low bidder is rejected for capacity or credit but the product or service is immediately required, the contracting officer can claim the contract is urgent and cannot await an SBA determination of competence for the rejected small business. The contracting officer informs the appropriate SBA office when this occurs. SBA does not have authority to challenge this claim, although officials can ask contracting officers to explain if the contract is not awarded immediately.

The SBA Boston Regional Office received 10 notices in fiscal years 1975 through 1977, and the New York Regional Office received 22 in fiscal years 1974 through 1976. Information in the SBA files on the validity of the urgency claims was limited. However, in some cases a long time had elapsed between the preaward survey and the date of the urgency decision. The preaward survey is a review of the low bidder's capacity and credit before contract award.

We reviewed all 32 notices of urgency. In 16 cases the date of both the preaward survey and urgency decision was unavailable at SBA. In 5 of the remaining 16 cases, more than 15 days had elapsed between the preaward survey and the urgency decision. In 3 of these 5 cases, 44, 50, and 52 days had elapsed. In the remaining 14 cases less than 15 days had elapsed between the survey and urgency decision. SBA officials were either unaware of the delays or, if questionable, had not pursued the matter with the contracting agencies.

We believe this matter warrants some attention. SBA should consider monitoring on a regular basis the time elapsing between a preaward survey and the date a contract is determined urgent and formally question contracting agencies when the time appears excessive.

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The above summarizes our survey findings. We plan no further work at this time. We will be pleased to meet with you or your staff to discuss these matters further, if you desire. Please advise us of any actions taken on the recommendations made in this letter.

A copy of this letter is being sent to the Director of SBA's
Office of Audits and Investigations

Sincerely yours,


John Landicho
Associate Director