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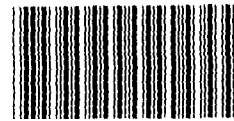
GAO

Briefing Report to Congressional Requesters

April 1986

**SMALL BUSINESS
ADMINISTRATION**

Status, Operations, and
Views of the
Certificate of
Competency Program



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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

RESOURCES, COMMUNITY,
AND ECONOMIC DEVELOPMENT
DIVISION

April 14, 1986

B-220769

The Honorable Lowell Weicker, Jr.
Chairman, Committee on Small Business
United States Senate

The Honorable Dale Bumpers
Ranking Minority Member
Committee on Small Business
United States Senate

In response to your letter of June 13, 1985, we reviewed the Small Business Administration's (SBA) Certificate of Competency (COC) Program, which you noted had not received a comprehensive review in 10 years. The COC Program is intended to assure that small businesses, especially new entrants into the federal procurement market, are afforded a fair opportunity to receive government contracts. Under this program, a federal agency that has denied a procurement contract to a small business that offered the lowest responsive bid must inform SBA of its decision, and the small business may apply to SBA to review its ability to perform the contract. If SBA certifies the business as competent, the business is to receive the contract. Subsequent to contract award, SBA is to monitor the contract until it is completed.

Based on agreements reached with your offices, we focused our effort on (1) developing overall program statistics, (2) reviewing SBA procedures for determining capabilities of the COC applicants, (3) reviewing the basis for SBA decisions to issue COCs, (4) reviewing SBA procedures for monitoring COC contractor performance, (5) comparing contractor performance on COC and non-COC contracts, and (6) obtaining contracting officers' views of the COC Program. On January 9, 1986, we gave an in-progress briefing to your staff and were requested to provide this briefing report.

Overall, SBA's statistical information shows that between fiscal years 1981 and 1985, the annual number of COC applications increased from 880 to 1,652, with the approval rate fluctuating between 50 and 56 percent. We found that SBA procedures for assessing a prospective contractor's capabilities are sufficient to address the standards established by the Federal Acquisition Regulation. Moreover, its procedures are generally consistent

with Department of Defense and General Services Administration procedures for assessing a prospective contractor's capabilities. Further, we found that, in a random sample of 287 applications in 5 of SBA's 10 regional offices, SBA was following its procedures for assessing a prospective contractor's capabilities, with minor exceptions, but it was not always carrying out required monitoring procedures.

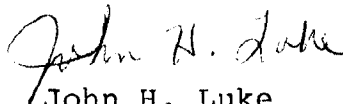
Prior work we performed and a comparison of a limited number of current contracts indicated that COC and non-COC contractors perform similarly. Further, the majority of contracting officers reported that COC contractors performed as well as non-COC contractors but that SBA's monitoring activities were inadequate.

SBA added eight employees to the COC staff in fiscal year 1985 and plans to add another nine employees in fiscal year 1986, a total increase of about 59 percent. Notwithstanding this increase, SBA said that because of increased applications it did not have the staff to carry out required monitoring. While monitoring activities have not always been conducted as required, SBA has not formally set priorities for its monitoring activities nor revised its monitoring requirements to reflect its views of staffing availability.

We received comments from SBA that generally agreed with this report's findings. SBA said that it planned to formally establish monitoring priorities in revised procedures expected to be issued in June 1986. SBA suggested certain clarifications, which were incorporated into the report where appropriate.

Unless you publicly release its contents earlier, we will make this report available to other interested parties 30 days after the issue date. At that time, copies of the report will be sent to appropriate congressional committees; the Administrator, Small Business Administration; the Director, Office of Management and Budget; and other interested parties.

Should you wish additional information on this matter, please contact me on (202) 275-6111.


John H. Luke
Associate Director

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ABBREVIATIONS

COC	Certificate of Competency
DLA	Defense Logistics Agency
DOD	Department of Defense
FAR	Federal Acquisition Regulation
GAO	General Accounting Office
GSA	General Services Administration
SBA	Small Business Administration
SIC	Standard Industrial Classification

U.S. GENERAL ACCOUNTING OFFICE
BRIEFING REPORT ON
THE SMALL BUSINESS ADMINISTRATION'S
CERTIFICATE OF COMPETENCY PROGRAM

For the
Committee on Small Business
United States Senate

SECTION 1

BACKGROUND

- o Program Purpose
- o Program Administration
- o Dollars and Personnel Involved

BACKGROUND

The Certificate of Competency (COC) Program is authorized by section 8(b)(7) of the Small Business Act of 1958, as amended (15 U.S.C. 637 (b)(7)). The Program's purpose is to assure that small business concerns, especially new entrants into the federal procurement market, are afforded a fair opportunity to receive government contracts. The COC process begins when a government contracting officer determines that a small business that offers the lowest responsive bid lacks responsibility, which means that it does not have the attributes of competency, capacity, credit, integrity, perseverance, and/or tenacity to perform the contract adequately. The contracting officer usually makes such a determination on the basis of a special review (pre-award survey) of the business' capabilities. The contracting officer cannot, however, unilaterally reject the bid. Instead, the case must be referred to the Small Business Administration (SBA) for final disposition.

After the receipt of a referral from an agency, SBA will contact the small business to determine if it wants to appeal the negative determination concerning its responsibility by applying for a COC. If the business applies, SBA is required within 15 working days after the receipt of an acceptable referral, or a longer period agreed to by SBA and the contracting agency, to determine independently whether the small business is capable of performing the work in question. If SBA determines that the business is capable of performing the contract, it will issue a COC to the contracting agency. Upon receipt of the COC, the contracting agency is to award the subject contract to the business. On the basis of SBA's favorable findings, the contracting officer will sometimes award the contract to the business before SBA issues a COC. SBA classifies this as a "direct award."

SBA administers the program primarily through its 10 regional offices. In fiscal year 1985, SBA allotted 8 additional staff positions to the regional offices for a total of 37 full-time positions to carry out the COC Program. SBA headquarters had one full-time position assigned to COC duties.

SBA employees assigned to other programs in the district and regional offices assist in the COC Program by making financial surveys for COC determinations and by monitoring COC contracts. SBA estimated that the COC Program cost about \$1.4 million to administer in fiscal year 1985.

SECTION 2

OBJECTIVES, SCOPE, AND METHODOLOGY

- o Requirements of Request
- o How We Handled:
 - Sample
 - Records
 - Interviews
 - Questionnaire for Contracting Officers
- o Period of Review

OBJECTIVES, SCOPE, AND
METHODOLOGY

In a letter dated June 13, 1985, the Chairman and the Ranking Minority Member, Committee on Small Business, United States Senate, requested us to conduct a broad review of the COC Program administered by SBA. Specifically, we were requested to review:

- (1) overall COC Program statistics,
- (2) SBA procedures for determining the capabilities of COC applicants,
- (3) the basis for SBA's decisions to issue COCs,
- (4) SBA procedures for monitoring COC contractor performance,
- (5) contractor performance on COC contracts compared with non-COC contracts, and
- (6) contracting officers' views of the COC Program.

To accomplish the first objective, we obtained SBA's computerized file for fiscal years 1981 through 1985, showing, among other things, the number of COC referrals and applications received; the disposition of each application; and the value of the contracts and amount of contract costs avoided -- the difference between the award price to the COC recipient and the price offered by the next lowest bidder.

For objectives two through four, we reviewed SBA procedures used by the regional offices in determining the capabilities of COC applicants and monitoring contractor performance after the COC award. We compared SBA procedures for determining a firm's capabilities with the requirements of the Federal Acquisition Regulation (FAR), as well as the pre-award survey procedures of the Department of Defense (DOD) and the General Service Administration (GSA). Also, we randomly selected for detailed review 300 of about 1,300 COC applications received by the 5 SBA regional offices that the requesters had asked us to examine -- Boston, Philadelphia, Atlanta, Dallas, and San Francisco -- from October 1982, through March 1985. See appendix I for an overview of the sample cases. We designed the sampling plan to provide estimates with a sampling error of no more than 5 percent at the 95 percent confidence level for the 5 SBA regions.

From our sample of 300 COC applications, we eliminated 13 cases for the following reasons. In five cases, the contractor decided not to file a COC application; in two cases the files could not be located; and in six cases the referrals were made due to a finding of non-compliance with the requirements of the Walsh-Healey Act (41 U.S.C. 35(a)) and therefore were not subject to the regular review procedures for determining responsibility. Walsh-Healey cases involve firms that contracting agencies

determine to be ineligible for supply contracts because they were found not to be the manufacturer of, or a regular dealer in, the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract.

To fulfill the fifth objective, a comparison of COC and non-COC contractor performance, we compared contractor performance on 8 COC contracts and 10 non-COC contracts at the Army Missile Command, Huntsville, Alabama, and 10 COC contracts and 10 non-COC contracts at the San Antonio Air Logistics Center, Kelly Air Force Base, Texas. While we attempted to compare contracts that were similar in size and purpose, our sample was not scientifically based and, as such, the results cannot be projected. Also, we conducted a literature search to identify studies comparing performance of COC and non-COC contractors. Further, we reviewed the results of three GAO studies conducted in 1978, 1980, and 1983.

To obtain views on the COC Program from contracting officers, we developed and pretested a questionnaire. We sent the questionnaire to all contracting officers whom we identified as referring a case to any of the five SBA regional offices included in our review between October 1984 and June 1985. We mailed a questionnaire to 402 contracting officers and received responses from 327, a response rate of 81 percent.

We interviewed SBA officials responsible for the COC Program at SBA headquarters and at the five SBA regional offices included in our review. We also interviewed officials in DOD and GSA concerning various aspects of the COC Program and contractor performance on COC contracts.

We conducted our review between July 1985 and January 1986 in accordance with generally accepted government auditing standards, but we did not validate the accuracy of the SBA computer data.

SECTION 3

STATISTICS SHOW GROWTH OF COC PROGRAM

- o COC Program Has Grown Each Year During the Last 5 Years
- o COC Program Grew at a Much Faster Rate in Fiscal Year 1985, Than in the Previous 4 Years

STATISTICS SHOW GROWTH OF COC PROGRAM

In terms of the number of referrals and applications, the COC Program has grown steadily over the last 5 years (Table 3.1). Moreover, the value of contracts and direct awards also reflect a steady growth in the COC Program if four unusually large contracts in fiscal years 1981 and 1982 are subtracted from the totals. The value of COC contracts in fiscal year 1981 included one \$268 million contract and the value of the 1982 contracts included three contracts totaling \$279 million, of which one was a direct award of \$55 million (Table 3.2).

The rate of growth in fiscal year 1985 was greater than the rate in the previous 4 years. For example, the average growth in referrals, applications, and COCs issued from fiscal year 1981 through fiscal year 1984 was about 6 percent compared to a 1985 growth rate of 38 percent for referrals, 50 percent for applications, and 62 percent for COCs. According to SBA's Director, Office of Industrial Assistance, much of the fiscal year 1985 growth rate is attributable to a stricter review of contractors with poor prior performance records and without approved quality assurance systems by DOD's Defense Logistic Agency (DLA).

Tables 3.1 and 3.2 show program statistics for fiscal years 1981 through 1985.

Table 3.1: COC Program Activities Fiscal Years 1981-1985^a

<u>Fiscal year</u>	<u>Referrals to SBA</u>	<u>Contractor applications^b</u>	<u>COC approvals</u>	<u>Application denials</u>	<u>Direct awards without a COC</u>
1981	2,652	880	489	322	12
1982	2,837	998	495	409	13
1983	2,949	1,071	556	393	20
1984	3,072	1,099	547	378	29
1985	<u>4,223</u>	<u>1,652</u>	<u>884</u>	<u>540</u>	<u>54</u>
Total	<u>15,733</u>	<u>5,700</u>	<u>2,971</u>	<u>2,042</u>	<u>128</u>

^aStatistics were compiled by GAO from SBA's computerized management information system.

^bThe number of approvals, direct awards, and denials does not equal the number of applications because of such things as: applications withdrawn, referrals withdrawn, and procurements withdrawn.

Table 3.2: Dollar Significance of COC Program^a

<u>Fiscal year</u>	<u>Value of COC contracts</u> (thousands)	<u>Value of direct awards</u> (thousands)
1981	\$ 411,199 ^b	\$ 3,243
1982	412,863 ^b	59,605 ^b
1983	167,342	6,766
1984	236,633	8,608
1985	<u>281,221</u>	<u>14,048</u>
Total	<u>\$1,509,258</u>	<u>\$92,270</u>

^aStatistics were compiled by GAO from SBA's computerized management information system.

^bAmounts were influenced by a few oil and/or jet fuel contracts that were much larger than the average COC contract.

SBA officials said that the number of COC referrals from contracting agencies could be increased several times when the FAR is revised to incorporate section 401 of P.L. 98-577, approved October 30, 1984. This act prohibits SBA from establishing an exemption for a referral or refusing to accept a referral from a contracting agency. The FAR presently exempts from referral to SBA procurements being made under its small purchase procedures provision, which cannot exceed \$10,000 for civil agencies and \$25,000 for defense agencies. DLA officials estimated that SBA could receive about 33,000 referrals annually from them after this exemption is eliminated from the FAR.

SECTION 4

**SBA COC PROCEDURES PROVIDE
THE BASIS FOR SOUND DECISIONS**

- o SBA Procedures Require a Comprehensive Review
- o SBA Procedures are Generally Consistent With DOD's and GSA's

SBA COC PROCEDURES PROVIDE
THE BASIS FOR SOUND DECISIONS

SBA procedures for determining a prospective contractor's capabilities are consistent with the general standards for determining a responsible contractor as outlined in the FAR and provide the opportunity for SBA staff to make sound COC decisions. To implement these procedures, professional judgment is a key factor in each decision to issue or to deny a COC. The COC procedures generally require that the prospective contractor submit to SBA detailed financial and production information. Additionally, SBA's industrial specialist and financial specialist (loan officer) are required to visit the prospective contractor's facilities to obtain firsthand information and make observations. On the basis of the information supplied and personal observation, the specialists are to prepare written reports with recommendations to a COC review committee on whether to issue or deny a COC. The COC review committee is to analyze the specialists' reports and make a recommendation to the appropriate authority to issue or deny a COC. SBA procedures are comparable to DOD's and GSA's for conducting pre-award surveys. We tested the application of the procedures in the 287 cases that comprised our sample and found only minor deviations from the procedures.

SBA procedures require
a comprehensive review

FAR, which is the primary procurement regulation followed by all federal executive agencies to acquire supplies and services, prescribes the standards and procedures for determining a responsible contractor. It states that a contractor must (1) have adequate financial resources, (2) be able to comply with the required or proposed delivery or performance schedule, (3) have a satisfactory performance record, (4) have a satisfactory record of integrity and business ethics, (5) have in place or the ability to obtain the necessary organization, experience, accounting and operational controls, and technical skills, (6) have in place or the ability to obtain the necessary production, construction, and technical equipment and facilities, and (7) be otherwise qualified and eligible to receive an award under applicable laws and regulations.

To address each of the FAR standards for determining a responsible contractor, SBA procedures require its staff to obtain information from procuring agencies and contractors, and to develop observations based on site visits. When notifying SBA of its decision to reject a prospective small business contractor, the procuring agency must provide

- the pre-award survey and supporting papers,
- the contracting officer's determinations and findings,

- the abstract of bids if it is an advertised procurement, and
- the solicitation, including the specifications and drawings.

Upon receiving this information, SBA contacts the small business to determine if it is interested in pursuing a COC. If interested, SBA requires the business to make a formal application and provide SBA with detailed financial and production information, including

- an outline of production plans, including overall plant loading and delivery schedules of each contract, in-house and proposed;
- a list of principal subcontractors' names and addresses, including copies of agreements;
- plans for placing orders for materials, equipment, supplies, and subcontracting;
- suitability of quoted delivery schedules and availability of necessary supplies, materials, and parts;
- resumes of key personnel and documented availability of needed technical and supervisory personnel and special skills;
- documentation of inspection procedures and quality control plans;
- financial statements prepared within the past 90 days including profit and loss statements for the past 3 years;
- cash flow projections;
- resources for outside financing, as needed, with positive commitments from the source;
- written confirmation of the bank account balance; and
- a list of all government contracts and principal civilian customers during the past 3 years.

SBA informs the COC applicant at the time of the request for these data that it is the applicant's responsibility to demonstrate competency clearly with sufficient documentary evidence in order to be granted a COC.

Depending on the reasons given for the procuring agency's finding of non-responsibility, an industrial and/or financial specialist is required to visit the firm. The purpose of the industrial specialist's visit is to survey the firm's facilities and review with it the requirements of the proposed contract and

the data supplied by the firm to demonstrate its capability to perform. The industrial specialist's site visit is optional for contracts under \$10,000 and may be waived if a specialist had recently visited the firm. If the solicitation is for a service and the prospective contractor's facility is only its office, a visit may also be waived. However, in such cases, the procedures require that consideration be given to visiting the facility where the work is to be performed.

The financial specialist is generally required to make a site visit if adequate financial resources are a factor in the agency's finding of non-responsibility. The financial specialist is to make an on-site survey of the firm's facilities to develop the financial aspects of the case, including inspection of inventory, work in progress, and the cash flow projections for the total work load as well as for the proposed COC contract.

The industrial and financial specialists are required to prepare reports on the basis of the information obtained. The industrial specialist completes the "SBA Plant Survey," which must be accompanied by a narrative report. The narrative should discuss pertinent factors, both favorable and unfavorable, relating to the prospective contractor's capability. The financial specialist completes the "Loan Officer's Report," which contains the analysis, findings, and recommendation with respect to the prospective contractor's financial competency. The report should include information on the firm's existing working capital and net worth, specific amounts and sources of credit, together with confirmation of that credit from suppliers, financial institutions, or individuals. The report is to conclude with a summary of findings and a recommendation to either issue or deny the COC.

SBA procedures further require that each COC case be presented before a review committee established at each SBA Regional Office. The Regional COC Review Committee is chaired by the Assistant Regional Administrator for Procurement Assistance and is comprised of an industrial specialist, a senior regional financial officer, and a regional counsel. The committee examines each case and makes a recommendation to the Regional Administrator for Procurement Assistance for final decision. The Regional Administrator has authority to deny a COC pertaining to a contract bid of any amount and to approve a COC for a contract bid up to \$2 million.¹ A contract bid over \$2 million must be submitted to the Associate Administrator for Procurement and Technical Assistance at SBA headquarters for a final COC decision.

¹Effective December 24, 1985, the approval authority was increased to \$5 million for a period of 1 year.

As part of our analysis of the 287 cases, we tested implementation of the SBA COC procedures to determine if (1) required site visits were made, (2) the review committee disagreed with specialist recommendations without additional support, and (3) cases were processed within 15 workdays.

Of our 287 sample cases, the industrial specialists did not make a required visit in 4 instances. While the files do not explain why the visits were not made, we noted that in one case the prospective contractor visited the SBA office and in two cases the contract bid amounts were small, \$15,000 and \$35,500. We did not note anything in the file for the remaining case that could explain why a visit was not made. In each of these four cases, SBA did not issue a COC.

The financial specialist did not make a required visit in 11 cases. While the files do not explain why the visits were not made, we noted that a financial specialist contacted the prospective contractor by telephone in four cases, visited with the prospective contractor at an SBA office in two cases, and visited the prospective contractor at his home in one case. We did not note anything in the files for the remaining cases that could explain why a visit was not made.

In all 287 cases, a narrative report had been prepared by the industrial specialist and, where appropriate, a report had been prepared by the financial specialist in all except 1 case. The COC review committee generally accepted the specialists' recommendations. The committees agreed with the specialists' recommendations in 268 cases, or 93 percent of the total reviewed. In the 19 cases where the committees did not agree with the specialists' recommendations, the file showed that the committees had obtained additional documentation subsequent to the specialists' reviews to support their decisions in 10 cases. For the remaining nine cases, the committees came to a different conclusion after analyzing the same information.

The review committees were properly formed in 259 of the 287 cases and not properly formed in 22 cases. In these 22 cases, the industrial specialist was absent in 13 cases, the regional counsel was absent in 5 cases, the financial officer was absent in 2 cases, and both the industrial specialist and regional counsel were absent in 2 cases. In 6 of the 287 cases, 2 were direct awards and did not require a review by a committee, and the information was not in the file in 4 cases.

Concerning processing time, the files showed that SBA made its determination within the 15-day period in 45 percent, or 128 of the 287 cases and was awarded an extension of time by the contracting agency in another 42 percent, or 120 cases. SBA processed 31 cases, or about 11 percent, after 15 days without any extensions being granted. Of the remaining eight cases, four involved direct awards and processing time was not a factor, and the files did not indicate the processing time in the other four cases. Table 4.1 shows processing time for our sample cases.

Table 4.1: Processing Time for COC Cases

<u>Number of workdays</u>	<u>Cases</u>	
	<u>Number</u>	<u>Percent</u>
15 and under	128	44.6
16-20	84	29.3
21-25	32	11.1
26-35	17	5.9
36 and over	18	6.3
Subtotal	279	97.2
Not applicable	8	2.8
Total	287	100.0

SBA procedures are generally
consistent with DOD's and GSA's

SBA procedures for determining the capabilities of a COC applicant are generally consistent with DOD and GSA procedures implementing the FAR for conducting pre-award surveys. SBA policy is to work closely with government procuring offices to ensure that government procurement regulations and SBA operating procedures are consistent.

We reviewed and compared SBA, DOD, and GSA procedures for items to be considered when assessing the technical, production, quality assurance, and financial capabilities of a prospective contractor. We noted general agreement in the items the three agencies require to be considered. For example, DOD procedures for determining the technical capability of a prospective contractor require a pre-award survey team to assess the prospective contractor's key management personnel to determine if they have the basic technical knowledge, experience, and understanding of the requirements necessary to produce the product or provide the service. The procedures require that adequate technical management resources must exist or be available to the firm before a contract is awarded. DOD procedures state that the areas to be considered when assessing technical capability include the following:

- a full understanding of the technical requirements, such as specifications and drawings;
- availability of technical management personnel; and
- possession of technical knowledge in specialized areas, such as special tooling and test equipment.

GSA procedures require a quality assurance specialist to assess key personnel's understanding of contract terms relating to quality; to develop background information on key personnel; and to analyze the availability of production equipment, test equipment, and special tooling.

SBA procedures require the industrial specialist to review and document the background and experience of management; the requirements for and availability of additional personnel, especially those with required skills; and the requirements for special tools, dies, gauges, jigs, fixtures, and additional test equipment. Also, SBA procedures state that when determining the applicant's ability to meet the proposed contract requirements, full consideration shall be given to management's depth, experience, background, capability, and past performance.

SECTION 5

MOST COCs ISSUED INVOLVED A CHANGE IN CIRCUMSTANCES

- o 83 Percent of COCs Issued Involved Changed Circumstances
- o Changes Were in Two Broad Categories:
 - Factual Changes Due to the Time Difference Between the Referring Agency's Pre-Award Survey and SBA's Review, and
 - Information on Circumstances SBA Identified That May Have Existed at the Time of the Pre-Award Survey.

MOST COCS ISSUED INVOLVED A CHANGE IN CIRCUMSTANCES

To determine what affect changes in circumstances in the time between the agencies' and SBA's reviews of prospective contractors' capabilities had on SBA's decisions on the 166 cases in our sample in which a COC was issued, we compared information in SBA's files on the agencies' basis for their decisions and on SBA's basis for its decisions.

Our analysis showed that SBA's decisions on 138, or about 83 percent, of the COCs in our sample were affected by circumstances and/or information that differed from those available at the time of the contracting agency's review of the firm's capability. The extent to which changed circumstances affected SBA's decisions varied. In some cases, the change affected the basic reason for the finding of non-responsibility, whereas in other cases it affected only a part of the reason. For example, in one case a company was referred for inadequate financial resources because it did not have sufficient funds to complete the proposed contract; however, by the time SBA reviewed the COC application, the company had established a line of credit.

Cases that we identified in which a change in circumstances affected SBA's decision can be placed into two general categories. First, there were cases in which a factual change occurred between the time of the procuring agency's pre-award survey and the COC review such as: implementing an adequate quality control system, hiring additional employees, acquiring equipment, and/or securing a loan or a line of credit. The second group includes those cases in which SBA identified additional information or circumstances that may have existed at the time of the pre-award survey but were not considered. For example, on a company referred for poor prior performance, SBA contacted more customers than the pre-award survey team had; on a company referred for inadequate credit, SBA identified over \$300,000 in the bank; on a company referred for inadequate capacity, SBA identified a prior contract for which the company produced a greater quantity of the item than called for in the contract involved in the referral.

Agency officials at DOD and GSA who were responsible for performing pre-award surveys told us they do not reevaluate the COC cases to identify the reasons why SBA reached a different conclusion. They did say, however, that they were aware that a change in circumstances often occurs because of the time span between when they do their pre-award survey and when SBA makes its COC review.

SECTION 6

SBA PROCEDURES CONSIDER CURRENT AND FUTURE WORKLOAD REQUIREMENTS IN ASSESSING PROSPECTIVE CONTRACTOR CAPACITY

- o Eighteen of the 287 Sample Cases Were Referred to SBA Because of Insufficient Capacity to Meet Production Requirements
- o SBA Considered Existing and Proposed Workload Commitments in Assessing the Prospective Contractor's Capacity in Each of the 18 Cases
- o SBA Agreed with the Prospective Contracting Agency's Determination in 8 Cases and Disagreed in 10 Cases

SBA PROCEDURES CONSIDER CURRENT
AND FUTURE WORKLOAD REQUIREMENTS IN
ASSESSING PROSPECTIVE CONTRACTOR CAPACITY

To assess the prospective contractor's capacity to meet production requirements, SBA procedures require the industrial specialist to consider not only the requirements of the contract subject to the COC referral, but also the requirements of the firm's other existing and proposed contracts. In doing so, SBA considers the quantity and time of delivery under each contract.

Of the 287 sample cases reviewed, we identified 18 that were referred to SBA because a pre-award survey team concluded that the prospective contractor did not have sufficient production capacity to meet the contract requirements. As required, SBA's industrial specialist considered the firm's capacity and workload requirements in the 18 cases. SBA agreed with the contracting agency in eight cases and, accordingly, did not issue COCs.

In the remaining 10 cases, SBA overruled the contracting agencies' determinations and issued COCs. We reviewed these cases for the reasons for SBA's decisions. In six of these, the files showed that a change of circumstances occurred between the time of the pre-award survey and the COC review. In two, SBA concluded that additional labor was available to expand the firm's capacity. In one, SBA disagreed with the contracting agency on the amount of work that one employee could do. For the remaining case, SBA determined that the prospective contractor had enough available capacity to perform the contract and that the contract would not adversely affect its other work. The following four examples are typical of the type of cases that SBA approved:

Example 1 -- The agency pre-award survey report stated that the firm did not have adequate space or adequate transportation to fulfill the contract requirements. The solicitation was for providing laundry services at several locations and permitted a firm to bid on one or more locations.

The SBA industrial specialist's report stated that the firm had the requisites for servicing one of the two locations. The report also stated that contracting agency personnel agreed that the firm had the capability to service one location. A COC was issued for one location, and a contract was awarded.

Example 2 -- The pre-award survey report stated that the prospective contractor proposed to accomplish the task with four stock clerks and one janitor, but further discussion with the project manager indicated a need for more employees. The report also stated that the budget contained no provisions for additional people.

The SBA industrial specialist's report stated that the prospective contractor planned to use himself, his wife, and their six sons to do the required work. The report also indicated that the contract could be performed with six to seven employees and that the bid price included sufficient funds for seven employees.

It concluded that sufficient labor was available. A COC was issued, and a contract was awarded.

Example 3 -- The pre-award survey report stated that the firm could not meet the production schedule because two employees could not cover the areas and the amount of equipment to be maintained. The SBA industrial specialist's report concluded that, on the basis of the location of the equipment, one individual could service the proposed contract. A COC was issued, and a contract was awarded.

Example 4 -- The pre-award survey report stated that the firm's time/phase milestone chart was in error. Thus, it concluded that the error affected the whole production cycle. Also, it stated that the claim of available capacity could not be considered because the current high number of delinquent contracts had created an overload condition in the plant.

The SBA industrial specialist's report stated that while the firm's performance was less than satisfactory, there was a reasonable assurance that timely deliveries would be made because it had available machine time for working the required parts, and the impact of this work on existing contracts would be minimal. A COC was issued, and a contract was awarded.

SECTION 7

HOW SBA CONSIDERS PRIOR POOR PERFORMANCE IN ASSESSING A FIRM'S CAPABILITY

- o SBA Considers Mitigating Factors When Assessing the Capabilities of a Firm Performing Poorly
- o SBA, as a Result of Such Factors, Awarded COCs to Firms That Had Had Delinquent Contracts
- o SBA and DOD Differ on the Treatment of Prior Poor Performance in Deciding a Firm's Capability

HOW SBA CONSIDERS PRIOR POOR PERFORMANCE
IN ASSESSING A FIRM'S CAPABILITY

Section 2731 of the Competition in Contracting Act, Public Law 98-369, 98 Stat. 494, 1195 (1984), amended the Office of Federal Procurement Policy Act (41 U.S.C. 403 (8)) by adding a definition of "responsible source" that includes a requirement for a "satisfactory performance record." Our review of this act and the Small Business Act of 1958, as amended (15 U.S.C. 637 (b)(7)), relevant legislative histories, and implementing regulations showed that no statutory or regulatory criteria exist to guide SBA in evaluating prior performance when making COC decisions. In addition, SBA has not established specific written criteria to make such determinations.

SBA officials told us that they consider factors such as satisfactory performance on similar items, actions taken to correct late delivery problems (delinquencies), delinquencies caused by unforeseen events, non-recurring events, available capacity, and trends toward better performance. As a result of such factors, SBA has awarded COCs for firms that were delinquent on prior and current contracts.

SBA procedures state that,

"One of the purposes of the COC procedure is to assist the applicant in becoming established or reestablished with government procuring agencies. It is not intended that the procedure be abused by forcing acceptance of a bidder in the face of continuing delinquency on other government work. . ."

Both SBA and DOD officials told us that SBA and DOD have agreed to disagree on the treatment of prior performance in deciding a firm's capability. DOD written policy requires that when a firm has failed in the past to make contract deliveries in accordance with the prescribed delivery schedule through no fault of the government, the pre-award team is to make a "no award" recommendation. In elaborating on this policy, DLA officials told us that even if the prospective contractor has taken action to correct the cause of its delinquencies, it must satisfactorily perform on one or more subsequent contracts before an "award" recommendation will be made by a pre-award team.

On the other hand, SBA, in its advocacy role for small businesses, is more willing to give a prospective small business contractor the benefit of the doubt. SBA's Director, Office of Industrial Assistance, told us that SBA is more lenient than DOD when judging prior poor performance. He said that SBA gives favorable consideration to factors such as improved performance, unforeseen events causing past delinquencies, and actions to correct problems causing past delinquencies. Also, a SBA regional official told us that while SBA's judgment of prior performance

was the major factor in assessing a firm's ability to produce, other factors are considered. He said that the regional office:

- will try to determine reasons for the previous poor performance and will usually rule in favor of the prospective contractor if the basis for poor performance can be easily corrected, but it will usually rule against it if the basis for the problem seems unlikely to change;
- will usually rule in favor of the prospective contractor when poor performance was found to be related to some unforeseen event that is unlikely to occur again;
- will usually rule in favor of the prospective contractor when it has a good performance record on the item that is the subject of the contract involved in the COC referral; and
- will usually rule in favor of the prospective contractor when delinquencies were determined by SBA to be caused by the government.

In our sample of 287 cases, prior poor performance was a factor in the reason for referral in 109 cases. Of these, SBA agreed with the referring agency in 51 cases, or about 47 percent, and denied the COC. This percentage is six points higher than the overall denial rate of 41 percent for the cases in our sample (see appendix I).

SBA overruled the contracting agency and issued a COC in 58 cases, of which 50 were referred by DOD. For these cases, we reviewed the reasons for SBA's decisions as they related to performance. In 15 cases, the primary reason for the decision appeared to be a change in circumstances between the pre-award survey and the COC review. Philosophical differences between SBA and DOD appeared to be the primary reason for the decision in 34 cases. The remaining case was one of the nine cases we discussed earlier in which the COC regional review committee did not agree with the specialists' recommendations. The following cases are examples of SBA's consideration of prior poor performance in assessing prospective contractors' capabilities:

Example 1 -- The procuring agency's pre-award survey report stated that of the 56 contracts the firm completed within the past year, 36 were completed late. It also said that it was delinquent on 9 of 40 current contracts. The report stated that shop backlog, faulty or inadequate planning, poor purchasing practices, and poor production planning and control caused these delinquencies.

The SBA industrial specialist's report stated that the firm had taken action to improve its production and material controls so the firm's overall performance was steadily improving. The report also stated that the firm had installed a computer system to control contract follow-up and administration,

control inventories, and monitor production schedules. SBA issued a COC.

Example 2 -- The agency's pre-award survey report stated that, during the 13-month period ending October 31, 1984, the firm completed 25 contracts, of which 17 were completed late. The report stated that 10 of the 17 delinquent contracts were caused by the contractor: material shortages caused 5 and scheduling deficiencies caused the other 5. The report also stated that 26 of 46 active contracts were delinquent, of which 15 were contractor-caused. Moreover, the report recognized actions the contractor took to correct its production problems and concluded that, based upon experience in manufacturing similar items and the availability of material and capacity, it should have been able to meet the delivery requirement. The report stated that notwithstanding recent corrective action, actual performance had not confirmed the effectiveness of the actions and no award was recommended.

SBA concluded that the corrective action the firm took had been encouraging, and it anticipated further improvements. SBA issued a COC.

Example 3 -- The pre-award survey report stated that of 7 contracts completed within the past year, 5 were completed delinquent; and of 18 current contracts, 12 were delinquent when compared with the original delivery schedule.

The SBA industrial specialist's report stated that the firm had to relocate three times during the last 18 months to accommodate its growth. The report also said that the firm had made a sincere effort to "catch up" and increase its deliveries. SBA issued a COC.

Example 4 -- The pre-award survey report stated that the two contracts completed in the last year were completed late. The report also stated that one of three current contracts was late more than 60 days, and the other two were late by less than 30 days.

The SBA industrial specialist's report stated that the firm did not refute the delinquencies on past and current contracts. However, the report stated that the only contract considered pertinent to the COC situation was a contract for items identical to the proposed COC contract. For that contract, the firm made the first delivery 3 days early, the second delivery 4 days late, and the final delivery 29 days late. SBA issued a COC.

SECTION 8

HOW SBA CONSIDERS SPECIAL CIRCUMSTANCES IN ASSESSING A FIRM'S CAPABILITY

- o SBA Considers Special Circumstances When They are Part of Both the Solicitation and Referral

HOW SBA CONSIDERS SPECIAL CIRCUMSTANCES
IN ASSESSING A FIRM'S CAPABILITY

SBA's review of a COC referral is influenced by the reason for the procuring agency's non-responsibility determination. SBA officials told us that if a proposed contract contains requirements that the referring agency considers critical, such as strict adherence to technical specifications or an urgent need for a product or service to be delivered on time, and these critical requirements are involved in the reason for the referral, SBA considers them in its review.

The FAR, the COC Program regulations, and SBA written review procedures do not require that special consideration be given to the subject matter of the proposed contracts, the nature of the goods and services being procured, or the impact on the federal government of untimely or other non-conforming contractor performance. SBA's position, as explained by the Director, Office of Industrial Assistance, is to measure any special circumstances included in the referral letter against the contract solicitation. If the procuring agency maintains that the proposed contract includes requirements that warrant special consideration, and these elements are clearly a part of the solicitation and of the agency referral, then SBA will consider them during its processing of the COC application. If the contract contains critical requirements, but they are not a part of reason for the finding of non-responsibility, then SBA would not necessarily consider them in its COC review.

Our analysis of SBA's review of sample cases corroborated the Director's comments that SBA considers critical elements that are a part of the reason for the referral. Our review of the files showed no instances where SBA failed to consider a critical requirement. Examples of referrals that involved critical or urgently needed items and SBA's handling of them follow:

Example 1 -- A case was referred to SBA because the pre-award survey had identified unsatisfactory production capability, a poor prior performance record, and an inability to meet the proposed contract's delivery schedule. The proposed contract was for a 2-inch flange for use in critical systems on submarines. SBA's industrial specialist's report and the COC committee's meeting minutes showed that SBA considered all the reasons for the referral and noted that the critical item was to be used on submarines. SBA denied a COC.

Example 2 -- A bid for M16 rifle firing pins was referred for production capability, quality assurance capability, financial capability, performance record, and ability to meet the required schedule. The procuring agency informed SBA that this procurement required strict adherence to technical requirements. Our review of the case file showed that SBA considered each element of the referral. SBA denied a COC.

SECTION 9

**SBA MONITORING EFFORTS DO NOT ALWAYS
COMPLY WITH ITS PROCEDURES**

- o SBA Procedures Require Monitoring
- o Required Monitoring Not Always Performed
- o Contractor Performance Problems
Not Always Identified

SBA MONITORING EFFORTS DO NOT ALWAYS
COMPLY WITH ITS PROCEDURES

After the procuring agency awards a COC contract, SBA is required to follow established procedures for monitoring each contract from award through completion of the contract. According to SBA, the primary monitoring objectives are to (1) ascertain whether a firm will need assistance to complete the contract, and (2) determine contract status. SBA's five regional offices, however, did not always perform the required monitoring.

SBA procedures require monitoring

SBA procedures require the industrial specialist and/or loan officer to visit the contractor's facility upon being advised of the contract award and periodically thereafter. The frequency of subsequent visits is based on contract progress. Also, the industrial specialist and loan officer can monitor the contract by telephone and/or mail. During the initial visit, SBA representatives are to alert the contractor to the importance of maintaining the COC contract and any other government work on schedule. They are to give the contractor appropriate management publications. During subsequent visits and contacts, SBA specialists are to ensure that orders are placed promptly; satisfactory delivery schedules are established; and items needed for production are scheduled for receipt in sufficient time and amount to meet the contract's delivery schedule. When checking a firm's financial aspects, SBA representatives are to check on such things as current financial conditions and changes since COC application; type and status of financial arrangements; adequacy of financial records; adequacy of financing and cash flow for the COC contract and any other business; and financial arrangements with subcontractors and the contracting agency.

SBA is to document the performance and financial status of each COC contract in a report, "Contract Progress Report of Certificate of Competency." Until February 1985, this report was to be completed monthly. Based on its review, the Office of Management and Budget approved use of the report on a quarterly basis, except in cases where performance problems required more frequent monitoring.

Instructions for completing the monitoring report state that specific information is required on the contract, such as (1) status of material or component receipts, (2) progress on prototypes, and (3) other work accomplished during the period. If the contract is delinquent, the report is to show the extent of the delinquency in days and quantity, cause of the delinquency, what SBA is doing for corrective action, and actions anticipated during the next reporting period.

Required monitoring not always performed

Our review of a sample of COC case files showed that SBA was not always performing its monitoring activities in accordance with its procedures. SBA officials knew that monitoring of the COC program was not being done as required. They said this was caused by the need to use a greater number of their staff to review the increased number of COC referrals and applications. An SBA internal 1984 report, "Report to the Administrator on the Analysis of the Management and Administration of the Procurement and Technical Assistance Programs," stated that many regional and district offices were not performing the follow-up portion of the COC Program in accordance with existing procedures and many problems were not being identified. The report stated that SBA did not have the staff to carry out its procedures.

Major variances we noted between procedures and practices in our sample cases follow:

- In 84 of 146 cases for which information was available, the first contact was made by telephone, not by a site visit as SBA procedures require.
- In 109 of 143 cases for which information was available, the first contact was from 21 to 438 workdays after the contract award date. The Director, Office of Industrial Assistance, told us that this visit should be made within 1 month of the contract award date.

We noted also that in 22 of 76 production contracts for which information was available, the first contact was made after the first scheduled product delivery date. Further, SBA's files showed that 64 percent of all monitoring contacts were made by telephone. SBA's files also showed that 50 of 159 contracts for which information was available were totally monitored by telephone, and 16 of the 159 contracts were not monitored.

Performance problems not always identified

According to SBA files, 25 contracts in our sample were reported delinquent sometime during the contract life. In 12 of the contracts, SBA was not aware of a potential problem before the contract became delinquent. For example, SBA made its first monitoring contact on one contract over 1 month after the first delivery was due on the items under production. At the time of that visit, the items had been delivered and returned to the contractor for reworking because they did not meet contract specifications. The contractor apparently could not make the item in accordance with required tolerances and, as a result, the contract was terminated for default.

Through its monitoring activities, however, SBA identified a potential problem in 8 of 25 contracts (about 32 percent), before the contract became delinquent. The files indicated that SBA attempted to assist the contractor in four of the eight cases.

For example, during a site visit to one firm the SBA representative noted that, while the contract was on schedule, a cash flow problem had developed. SBA attempted to help the firm obtain a working capital loan from a bank. While the file did not show whether the firm received a loan, the firm continued to have financial problems, and eventually the contract was terminated. For the remaining five contracts, the files did not show whether SBA became aware of the problem before or after the delinquency.

SBA's files showed limited communication between SBA and the contracting agencies on these 25 contracts. For instance, available evidence showed that SBA notified the responsible contracting officer of a problem in two of the eight contracts on which it identified a performance problem before the delinquency. Similarly, the files showed that SBA learned about a performance problem from the contracting agency in six cases. In each case, however, the contract was delinquent by the time the contracting agencies notified SBA of the problem.

Observations

SBA increased its staffing of the COC program by 8 employees in fiscal year 1985, and plans to add another 9 employees during fiscal year 1986, for an increase of about 59 percent in staff resources. Notwithstanding these increases, the Director, Office of Industrial Assistance, told us that because of increased referrals and applications SBA would not have the staff to carry out the monitoring activities as required by its procedures. While monitoring activities have been less than required, SBA has not formally set priorities for its monitoring activities nor revised its requirements to reflect its views of staffing availability.

In commenting on our draft report, SBA officials gave us a copy of a May 1981 memorandum sent to the regional offices that suggested ways to prioritize COC cases for monitoring. Also, they told us that an April 1985 COC workshop was held for industrial specialists that included a segment on ways to prioritize COC cases for monitoring. SBA officials recognized that all the regions were not staffed to carry out these priorities when they did their monitoring. Therefore, they said that they planned to formalize monitoring priorities in relation to staffing availability in revised procedures that are expected to be issued in June 1986.

SECTION 10

CONTRACTING OFFICERS' OPINIONS
OF COC PROGRAM ARE MIXED

- o A Majority of Contracting Officers Responding to a GAO Survey Reported:
 - COC Contractors Performed as Well as Non-COC Contractors
 - SBA Monitoring Activities Were Less Than Adequate
 - COC Program Benefited Small Businesses But Did Not Benefit the Federal Government
- o Forty-eight Percent Responded That the COC Review Process was Effective, 39 Percent Responded That it was Ineffective, and 13 Percent Responded That They had No Basis on Which to Judge
- o Contracting Officers' Knowledge of the COC Program and the Level of their COC Activity May Have Influenced Their Views of the Program

CONTRACTING OFFICERS' OPINIONS OF COC PROGRAM
ARE MIXED

To obtain the views of government procurement contracting officers on the COC Program, we sent a questionnaire to 402 contracting officers who referred a prospective contractor during the first 9 months of fiscal year 1985 to 1 or more of the 5 SBA regional offices included in our review. Of the 402 contracting officers, 327, or 81 percent, responded to our questionnaire. The contracting officers responding represented many government agencies but, as would be expected based on the sample of COC cases (see appendix I), a high percentage of them -- about 94 percent -- were from GSA and DOD.

Comparing COC and non-COC contracts, contracting officers judged the COC Program favorably in terms of timeliness and frequency of contract completion, quality of goods and services delivered, and benefits to small businesses. On the other hand, contracting officers' views were less favorable with respect to benefits to the federal government, SBA monitoring and follow-up activities, and monitoring required by their agencies. Responses to key questions are summarized in this section, and a copy of the questionnaire and responses are included in appendix II of this report.

Fifty-one contracting officers, about 16 percent of the respondents, reported that none of the small businesses that they referred to SBA in fiscal year 1985 applied for a COC. Since we wanted contracting officers' views based on recent experience with the COC Program, we instructed these contracting officers not to answer any further questions. Therefore, the discussion in the remainder of this section applies to the 276 contracting officers who said a small business that they referred to SBA applied for a COC during fiscal year 1985.

Sixty-one percent of the contracting officers reported that they awarded 100 or fewer contracts in fiscal year 1985. Sixty-six percent of the contracting officers had contracting authority of over \$1 million. In terms of years of government procurement experience, 12 percent had 1 to 5 years of experience, 25 percent had 6 to 10 years, 19 percent had 11 to 15 years, 18 percent had 16 to 20 years, and 26 percent had more than 20 years.

Most contracting officers reported little COC activity in fiscal year 1985. The questionnaire responses showed that 169, about 61 percent, of the contracting officers referred 5 or fewer cases to SBA for a COC determination, 30 percent referred between 5 and 20 cases, and 9 percent referred over 20 cases.

According to SBA, contractor performance in terms of delinquencies, terminations, and quality of goods or services are key measures of the success of the COC Program. The majority of contracting officers responding to our questionnaire reported

that performance on contracts awarded to COC recipients in each of these areas was about the same as or better than contracts awarded to small businesses that were not COC recipients. Fifty-six percent of the contracting officers said that COC recipients' contracts were behind schedule or delinquent about the same as or less often than similar contracts awarded to small businesses without a COC. Forty-five percent of the contracting officers reported that COC recipients' contracts were behind schedule or delinquent more often than contracts awarded to small businesses without a COC.

In the area of contract terminations for default, which is a relatively rare occurrence, according to SBA and contracting agency officials, 58 percent of the contracting officers reported that COC and non-COC contractors performed about the same. The percentages of contracting officers who reported that COC recipients' were terminated for default more often or less often than non-COC recipients were about 22 and 20 percent, respectively.

On the question of whether the delivered goods or services met or were meeting the contract specifications, 62 percent of the respondents reported that each group of contractors performed about equally. Twenty-eight percent of the contracting officers answered that COC recipients delivered goods or services that met or are meeting the contract specifications less often than non-COC contractors, and 10 percent responded that COC recipients delivered goods and services in accordance with specifications more often than non-COC recipients.

With respect to the review process, 48 percent of the contracting officers reported that SBA's review process was very or generally effective in ensuring that only responsible small businesses are granted COCs. Thirty-nine percent of the contracting officers reported that SBA procedures were ineffective, and 13 percent indicated they had no basis on which to judge SBA procedures. In comparing SBA criteria for measuring the responsibility of small businesses with the criteria used by their own agency, 46 percent of the respondents reported SBA criteria were somewhat or much less effective, 27 percent responded that SBA criteria were as effective as or more effective than their own agencies; and 27 percent responded that they had no basis on which to answer.

The level of contracting officers' familiarity with SBA's COC review process varied widely. Twenty-three percent of the contracting officers reported that they had great or very great familiarity, 34 percent reported some to little or no familiarity, and 43 percent reported moderate familiarity.

Regarding the benefit of the COC Program to the federal government and to small businesses, the majority of the contracting officers reported that it was of great benefit to

small businesses, but of only some or little benefit to the federal government. Fifty-eight percent of the contracting officers said the COC Program was of great benefit to small businesses, compared to only 14 percent reporting it was of great benefit to the federal government.

In response to the question on adequacy of monitoring and follow-up on contractor performance, 58 percent of the contracting officers reported that SBA monitoring and follow-up on contractor performance was adequate half the time or less. Only about 10 percent of the contracting officers rated SBA monitoring and follow-up adequate most of the time. About one-third of the contracting officers reported they had no basis on which to judge SBA monitoring and follow-up.

Regarding their own agency's monitoring of contracts with COC recipients as compared to contracts with small businesses without a COC, 55 percent of contracting officers reported that COC contracts required more monitoring. Forty-one percent of the contracting officers reported that COC and non-COC contracts required about the same amount of monitoring.

Contracting officers' knowledge of COC procedures and level of COC activity may have influenced their opinions of COC Program

Our analysis of questionnaire responses showed that as contracting officers' reported knowledge of the COC process increased and the level of COC activity increased, they tended to be more critical of the COC Program. We also noted that, as their knowledge increased, contracting officers tended to view the COC Program as more beneficial to the federal government. We did not, however, note any major differences in the contracting officers' responses when grouped by their agency.

Of those contracting officers who said they had great or very great familiarity with SBA's review process, 53 percent rated it as generally or very ineffective, compared to only about 40 percent of those who rated their knowledge of SBA's procedures as moderate or just some. Also, as contracting officers' reported familiarity with the COC review process increased, their views of the Program's benefit to the federal government also increased. For example, 30 percent of the contracting officers who reported a great familiarity with the COC process responded that the COC Program greatly benefited the government as compared to only 9 and 3 percent, respectively, of those who reported moderate or just some knowledge of the COC process.

To analyze responses based on the number of COCs issued, we divided the contracting officers who reported that one of their contractors had applied to SBA for a COC during fiscal year 1985 into four groups based on the number of COCs awarded in fiscal year 1985: no COCs awarded, one or two COCs awarded, three to five COCs, and six or more COCs. We found that generally the

contracting officers who reported no COC awards responded more favorably about the COC Program than those who had one or more contractors who received a COC. For example, only 35 percent of the contracting officers with no COC contracts reported that SBA criteria for measuring the responsibility of small businesses were less effective than their own agency's criteria. This compares with 72 percent of the contracting officers who reported one or two or more than five COC contracts and 57 percent of the contracting officers with three to five COC contracts.

A higher percentage of contracting officers with no COC contracts reported that the COC Program was of great or very great benefit to the federal government than did contracting officers in groups with one or more COC contracts. Twenty nine percent of the contracting officers who reported no COC contracts responded that the COC Program was of great or very great benefit to the federal government, compared with 8 to 14 percent of the contracting officers in the groups with one or more COCs.

Contract performance in terms of delinquencies and terminations over the last three years was another area in which contracting officers who had reported having no small businesses with COCs during fiscal year 1985 rated the COC Program more favorably than did those who had one or more COCs. Only 21 percent of the contracting officers with no COCs reported that COC contracts were delinquent more often than non-COC contracts, compared with 42 percent of the contracting officers with one or two COC contracts and 56 percent of those with three or more COC contracts. Regarding terminations, only 9 percent of the contracting officers with no COC contracts in fiscal year 1985 reported that COC contracts were terminated or defaulted more often than non-COC contracts, compared with 20 percent of contracting officers reporting one or two COC contracts, 26 percent of those reporting three to five COC contracts and 28 percent of those reporting six or more COC contracts.

Written comments on COC Program
were critical

Forty-five percent of the respondents included written comments, which were optional, on the space provided on the questionnaire. The comments were generally critical of the COC Program, but in some cases suggestions for improvements were made. Some of the more frequent comments were:

- COC applications are automatically approved,
- SBA is biased in favor of small business,
- SBA awards the COC and then takes no responsibility for contractor performance,

--the COC Program should not be applicable to the small business set-aside program, and

--the COC Program should not apply to contracts below a certain dollar limit.

SECTION 11

**DATA INDICATES THAT COC AND NON-COC
CONTRACTORS PERFORMED SIMILARLY**

- o Past Studies Reported Little Difference in Performance
- o Current Test of Contracting Activities at Two Locations Confirm Earlier Study Results
- o Overall Statistical Data Lacking to Compare Performance of COC and Non-COC Contractors

DATA INDICATES THAT COC
AND NON-COC CONTRACTORS PERFORM SIMILARLY

Prior reviews reported by us and the Defense Technical Information Center indicated that small businesses that are awarded contracts after COCs were issued performed similarly to small businesses awarded contracts without COCs. During a 1980 review of the COC Program at the request of the Chairman, Senate Select Committee on Small Business, and Senator Jim Sasser, GAO compared contract performance between 12 contracts GSA awarded after COCs were issued and 11 contracts GSA awarded without COCs. The results were:

- Goods or services were delivered late in 7 of the 12 COC contracts.
- Goods or services were delivered late in 10 of the 11 contracts awarded without COCs.

Further, during a 1983 review of the COC Program, performed at the request of Defense Personnel Support Center officials, we compared the performance on 41 contracts awarded without COCs with 79 contracts awarded after SBA issued COCs. We noted:

- Twenty of the 41 contracts awarded without COCs were completed more than 30 days late. None of the contracts were terminated for default.
- Twenty-seven of the 79 COC contracts were completed more than 30 days late. Another seven contracts were terminated for default.

Our findings were similar to a 1979 study published by the Air Force Institute of Technology on the impact COCs had on the air logistics centers. That study showed:

- Goods or services were delivered late in 23 of 42 COC contracts.
- Goods or services were delivered late in 25 of 40 contracts awarded without COCs.
- Four of the 42 COC contracts and 1 of the 40 non-COC contracts involved default action.

We visited 2 DOD locations -- Army Missile Command, Huntsville, Alabama, and San Antonio Air Logistics Center, Kelly Air Force Base, Texas -- and compared the contractor's performance on 18 COC contracts and 20 non-COC contracts. The contracts at each location were similar in size and type of items procured. We observed that:

- Eight of 18 COC contracts were delinquent by more than 30 days.

--Eight of 20 contracts awarded without COCs were delinquent by more than 30 days.

--Two COC contracts and two non-COC contracts were terminated for default.

We contacted DLA, Army, Navy, Air Force, and GSA officials to determine whether they had specific information on COC contract performance. We were told that their information systems did not identify COC contracts in this manner. Also, these officials said they were not aware of any other studies that compared performance between COC and non-COC contracts.

SECTION 12

SBA SAVINGS ESTIMATES CONTAIN MANY ERRORS

- o About One-Third of the Sample Cases on Which SBA Calculated Savings Contained Errors
- o SBA Underestimated Savings by About \$184,000 in Sample Cases
- o The Formula SBA Uses to Calculate Savings When it Does Not Have a Second Low Bid Resulted in a Conservative Estimate for the Sample Cases

SBA SAVINGS ESTIMATES
CONTAIN MANY ERRORS

Our analysis of SBA's reported savings on the COC Program identified errors in about 32 percent of our sample cases. The errors included both underestimates and overestimates of savings amounting to \$1,095,000 and \$911,000, respectively, for a net under-reporting of savings of \$184,000 on 171 cases in our sample. SBA calculates the savings from the COC Program as the difference between the applicant's bid price and the next lowest bid. According to SBA's Director, Office of Industrial Assistance, SBA uses the savings estimates in congressional budget hearings and in publications on the COC Program, and they are some indication of the program's benefits.

SBA's reported savings for all 10 regions for the last 5 years are shown in the following table:

Table 12.1: SBA Reported Savings on COCs
For Fiscal Years 1981-1985

<u>Fiscal year</u>	<u>COCs</u>	<u>Direct awards</u>
	----- (thousands) -----	
1981	\$ 22,023	\$ 231
1982	24,422	1,570
1983	23,815	972
1984	20,974	552
1985	<u>24,565</u>	<u>1,313</u>
Total	<u>\$115,799</u>	<u>\$4,638</u>

If the next lowest bid is not known, or if there is only one bid, SBA estimates the savings by the following percentage method:

- 10 percent of the applicant's bid if the bid is less than \$999,999,
- 5 percent of the bid if the bid is greater than \$999,999 and less than \$19,999,999, and
- 2 percent of the bid if the bid is greater than \$19,999,999.

SBA records showed that it used the next lowest bid to estimate savings in 82 of the cases in our sample and the percentage method to estimate savings for 89 cases in our sample. Our analysis of SBA's calculations of savings showed that errors occurred in:

- 35 cases where the percentage method was used, even though the second low bid was available in the regional office files;
- 10 cases where there were clerical or mathematical errors; and
- 10 cases where the contract was not awarded after the COC was issued, or the COC was denied but the case was included in the savings calculations, or a variety of other reasons.

Because SBA officials used the percentage method to estimate savings in over half the cases in our sample but could not provide the rationale for establishing the method, we compared the percentages in SBA's method with the actual percentages for the 111 cases in our sample for which SBA used the next lowest bid to calculate the savings, or where we found the next low bid in the files. Table 12.2 shows that the percentage SBA uses to estimate savings in the absence of a second lowest bid in 111 cases are lower than the percentage we calculated.

Table 12.2: Savings as a Percent of Bid Prices for GAO Sample Cases

<u>Cases where applicants' bid price was:</u>	<u>Number of GAO sample cases</u>	<u>Total bid price</u>	<u>Total savings</u>	<u>Savings as a percent of bid price</u>
Less than \$999,999	102	\$19,404,752	\$2,996,356	15.4
More than \$999,999 but less than \$19,999,999	9	\$12,681,433	\$ 847,259	6.7
More than \$19,999,999	0	0	0	0

SECTION 13

OTHER MATTERS

- o COC Program Involves
Many Industries
- o Most COC Recipients Have Only
One COC
- o SBA's and Contracting Agencies'
Interpretations of Contractor Performance
Performances Differ

OTHER MATTERS

In the five SBA regions, we found that COC applications were not highly concentrated in any one industry, and that less than 7 percent of the companies were awarded more than three COCs. We also noted that SBA's interpretation of contractor performance for many cases in our sample was more favorable than the contracting agencies' categorization of contractor performance on the same contract.

COC Program involves many industries

Products and services provided under COC contracts include a wide range of industries and are not concentrated in a limited number of Standard Industrial Classification (SIC) codes.² In fact, as shown in Table 13.1, only 8 SIC codes contained more than 5 of our sample cases, and our sample of 287 COC cases were distributed among 143 SIC codes.

Table 13.1: Frequency Distribution of COC Cases to SIC Codes

<u>Grouping of SIC codes by number of cases</u>	<u>Number of SIC codes</u>	<u>Percent of sample in these SIC codes</u>
With over 10 sample cases	4	17.4
With 6 to 10 sample cases	4	10.8
With 2 to 5 sample cases	45	40.4
With 1 sample case	<u>90</u>	<u>31.4</u>
Total	<u>143</u>	<u>100.0</u>

²The Standard Industrial Classification codes cover the entire field of economic activities under which all industries are classified.

Table 13.2 shows the SIC industries with more than five sample COC cases.

Table 13.2: SIC Industries Containing the Largest
Number of COC Contracts

<u>SIC Industry</u>	<u>Number of sample cases</u>
Aircraft parts and auxiliary equipment, N.E.C. ^a	14
Cleaning and maintenance services for dwellings and other buildings, N.E.C.	14
Repair shops and related services, N.E.C.	11
Radio and television transmitting, signaling, and detection equipment and apparatus	11
Canvas and related products	9
Valves and pipe fittings (except plumbers' brass goods)	8
Machinery, (except electrical) N.E.C.	8
Motor vehicle parts and accessories	6

^aNot elsewhere classified, which means that a related activity that is not clearly included within another SIC industry would be included here.

SIC industries for similar products or services are categorized into 65 major industry groups, such as business services or transportation equipment. To determine if products and services provided under COC contracts were concentrated in these more general groupings, we combined the COC cases by major group. Table 13.3 shows the major industry groups that included the highest number of our sample cases and the number of cases.

Table 13.3: Major Groups Containing the Largest Number of COC Cases in GAO Sample

<u>Major groups</u>	<u>Number of sample cases</u>
Fabricated metal products, except machinery and transportation equipment	37
Business services	34
Transportation equipment	28
Electrical and electronic machinery, equipment and supplies	24
Machinery, except electrical	21
Miscellaneous repair services	18
Apparel and other furnished products made from fabrics and similar material	18
Chemical and allied products	13
Construction - special trade contractors	12
Furniture and fixtures	8

These 10 major industry groups included 213 or about 74 percent of the 287 cases in our sample. The remaining 26 percent of our cases were distributed among 31 other major industry groups.

Most COC contractors have only one COC

SBA's management information system, which was automated in fiscal year 1980, contains the name of each firm referred for a COC and such information as whether the firm applied for a COC, whether a COC was approved or denied, and how the firm performed

on the contract. Our analysis of SBA records from the beginning of fiscal year 1980 through the first half of fiscal year 1985 for the 270 separate firms included in our sample showed:

- 120 firms, 44 percent of our sample, were single COC recipients;
- 85, 32 percent, applied for a COC but did not receive a COC; and
- 65, 24 percent, received more than one COC.

Our analysis of the number of COCs issued to contractors that received more than one COC showed:

- 46 contractors had 2 or 3 COCs,
- 12 contractors received from 4 to 10 COCs, and
- 7 contractors received more than 10 COCs (the highest 3 had 32, 23, and 19).

An objective of the COC Program is to encourage new entrants into the federal procurement market. Eighteen companies that received COCs had no sales to the federal government during the 3 years prior to their application for a COC.

SBA and contracting agencies' interpretations of contractors' performance differ

A comparison of SBA's categorization of contractor performance on 26 contracts with the contracting agencies' categorization of these same contracts showed that in 8 cases SBA reported more favorable contractor performance. This difference can be attributed in part to different methods used by SBA and by contracting agencies. SBA measures contractor performance against the date established in contract modifications caused by the contractor, the government, or an act of God. The contracting agencies measure performance against the original contract completion date unless the modification is government-caused or an act of God. In other words, if a contractor's performance is delayed due to its own performance problems, but the government modifies the contract to reflect a later date for final performance, SBA considers performance in conformity with contract modification to be timely, while the contracting agencies generally would not.

SBA measures its overall program success by the performance of contracts awarded as a result of a COC. According to a July 1985 memorandum on COC Program growth by SBA's Associate Administrator for Procurement Assistance, the delinquency or termination for default rates on COC contracts was always equal to

or better than the total government-wide contract rates. To provide information on the accuracy of SBA reporting on contract performance, we compared data on the status of 26 completed COC contracts obtained from the contracting agencies with SBA's recorded contract status. This represented about one-third of the completed contracts in our sample. We limited our evaluation to SBA and DOD contracts because they accounted for 71 of the 75 completed contracts in our sample. As shown in Table 13.4, SBA reported more favorable contract performance than the contracting agency on 8 of the 26 contracts.

Table 13.4: Performance Status of COC Contracts as Reported by Contracting Agencies and by SBA

<u>Contract status</u>	<u>Number of contracts</u>	
	<u>Contracting agencies</u>	<u>SBA</u>
on time/ahead of schedule	15	23
delinquent more than 30 days	9	1
terminations	2	2

In one of these cases, for example, a contractor had requested and received for monetary consideration a 60-day contract extension and shipped the item 9 days after the extended date, according to SBA files. SBA recorded the contract as completed on time, but DOD recorded the contract as completed behind schedule.

OVERVIEW OF SAMPLE CASES

Our random sample consisted of 287 applications for a COC made during fiscal years 1983, 1984, and the first half of 1985 in 5 SBA regional offices. The 287 applications resulted in:

- 166 (58 percent) approvals,
- 117 (41 percent) denials, and
- 4 (1 percent) direct awards.

Table I.1 shows the number and status of applications by SE regional office.

Table I.1: Status of COC Applications

<u>Regional actions</u>	<u>Regional Offices</u>					<u>Total</u>
	<u>Boston</u>	<u>Phila- delphia</u>	<u>Atlanta</u>	<u>Dallas</u>	<u>San Francisco</u>	
Regional approvals	9	48	31	17	54	159
Headquarters' approvals	1	0	2	2	2	7
Direct awards	0	1	1	0	2	4
Regional denials	9	29	23	17	34	112
Headquarters' denials	<u>3</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>5</u>
Total	<u>22</u>	<u>78</u>	<u>58</u>	<u>36</u>	<u>93</u>	<u>287</u>

The reasons for referral and the frequency were:

- 51 percent for capacity,
- 29 percent for credit,
- 16 percent for credit and capacity, and
- 4 percent for other reasons such as tenacity, perseverance and integrity, in addition to capacity and/or credit.

Ninety-four percent of the applications were from firms referred by GSA and the DOD agencies -- DLA, Army, Navy, and Air Force. The agencies that referred the remaining 6 percent were the Departments of Agriculture, Interior, Transportation, and Health and Human Services; the Veterans Administration; and SBA.

The applicant's bid prices ranged from \$1,465 to \$472,132,759 and were distributed as follows:

Table I.2: Distribution of Sample Cases by Bid Price

<u>Bid amounts</u>	<u>Number of cases</u>	<u>Percentage of cases</u>
\$25,000 or Less	36	12.5
\$25,001 - \$50,000	46	16.0
\$50,001 - \$100,000	57	19.9
\$100,001 - \$500,000	92	32.0
\$500,001 - \$1,000,000	32	11.2
Over \$1,000,000	<u>24</u>	<u>8.4</u>
Total	<u>287</u>	<u>100.0</u>

We provide information on the products and services purchased, prior COC experience, and the percentage of the applicants' business with the federal government on pages 55 to 58 of this report.

U.S. General Accounting Office
 Certificate of Competency Program
 Contracting Officers Questionnaire



Introduction

The U.S. General Accounting Office, an agency of the Congress is conducting a review of the Certificate of Competency (COC) Program administered by the Small Business Administration (SBA). Obtaining information on what federal government contracting officers think about the COC program is an important part of our review. This review is being done at the request of the Committee on Small Business, United States Senate.

We are sending this questionnaire to a sample of contracting officers who in fiscal year 1985 made referrals to SBA because they found small businesses with low contract bids to be "nonresponsible". The information we get from contracting officers such as yourself will help the Congress consider what changes, if any, are needed in the COC program.

We will combine the responses we receive and report them in summary form to the Congress. Individual responses will be confidential. No one will be told how you personally answered any question. The number on the questionnaire will be used for follow-up purposes only. It will not be used to identify you with your responses.

Please help by completing the questionnaire. It should take no more than fifteen minutes to complete. Please return it in the self-addressed business reply envelope within five days, if possible. If you have any questions please feel free to call Jim Kennedy or Paul Elmore at (202) 377-5483. This number can be dialed FTS. In the event the envelope is misplaced please return the questionnaire to the following address:

Mr. Jim Kennedy - Room 4476
 U.S. General Accounting Office
 441 G St., N.W.
 Washington, D.C. 20548

Thank you.

Note: All non-responses were deleted before calculating percentages. All numbers shown are percentages and they may not add to 100 percent due to rounding.

1. During Fiscal Year (FY) 1985 were you a contracting officer for a contract where a small business low bidder found to be "nonresponsible" applied to the Small Business Administration for a Certificate of Competency? (Check one.)

ID (1-3)

- 1. [84] Yes (4)
- 2. [16] No ----> You have finished the questionnaire. Please return it to the GAO in the enclosed return envelope.

2. During FY 1985 about how many small businesses did you refer to SBA as "nonresponsible"? (Enter number, your best estimate will be sufficient.)

(5-7)

Five or less 61
 More than five 39

3. About how many of the small businesses you referred to SBA during FY 1985 applied for a COC? (Enter number, your best estimate is sufficient.)

(8-10)

Five or less 75
 More than five 25

4. About how many of the small businesses that applied for a COC (reported in question 3) received the COC? (Enter number, your best estimate will be sufficient.)

(11-13)

Two or less 64
 More than two 36

5. About how many contracts, in total, did you award as a contracting officer during FY 1985? (Enter number, your best estimate is sufficient.)

(14-16)

100 or less 61
 101 - 200 16
 More than 200 23

6. In your opinion, how effective or ineffective is the SBA COC review process in insuring that only "responsible" small businesses are granted COCs? (Check one.)

(17)

- 1. [4] Very effective
- 2. [44] Generally effective
- 3. [22] Generally ineffective
- 4. [17] Very ineffective
- 5. [13] No basis to judge

7. Overall, how does the effectiveness of the criteria used by SBA to measure the responsibility of a small business compare with the evaluation criteria used by pre-award survey teams at your agency? (Check one.)

(18)

- 1. [2] SBA criteria much more effective
- 2. [8] SBA criteria somewhat more effective
- 3. [17] SBA criteria about as effective
- 4. [24] SBA criteria somewhat less effective
- 5. [22] SBA criteria much less effective
- 6. [27] No basis to judge

8. Overall, how much familiarity do you have with the SBA COC review process? (Check one.)

(19)

- 1. [4] Very great
- 2. [19] Great
- 3. [43] Moderate
- 4. [13] Some
- 5. [21] Little, or none

9. Based on your overall experience, how much benefit, if any, does the COC program provide to the Federal government and to small businesses? (Check one for each.)

(20-21)

	1. Very great benefit	2. Great benefit	3. Moderate benefit	4. Some benefit	5. Little, or no benefit
1. Federal government	3	11	22	29	35
2. Small businesses	24	34	22	12	8

10. Consider those contracts you awarded to small businesses that were recipients of COC's during the past 3 years. Overall, did the COC covered contracts result in the following outcomes more often, less often, or as often as similar contracts awarded to small businesses without COC's? (Check one for each.)

(22-25)

	1. COCs much more often	2. COCs somewhat more often	3. COCs about the same	4. COCs somewhat less often	5. COCs much less often
1. Contract on or ahead of schedule	1	4	41	32	21
2. Contract behind schedule/ delinquent	19	26	42	9	5
3. Contract terminated/ default	7	14	58	10	10
4. Delivered goods or services met or are meeting contract specifications	2	7	62	16	12

11. Following the award of COC by SBA, how often, if ever, do you believe SBA adequately monitors and follows-up on the performance of the contractor who received the COC? (Check one for each.)

(26-27)

	1. Always, or almost always	2. Most of the time	3. Half the time	4. Sometimes	5. Seldom, if ever	6. No basis to judge
1. Adequately monitors	1	10	4	13	41	32
2. Adequately follows-up	1	9	3	12	43	32

12. Compared with contracts awarded to small businesses without a COC, how much contract performance monitoring do small businesses who were recipients of a COC typically require by your agency? (Check one.)

(28)

1. [22] Much more monitoring
2. [33] Somewhat more monitoring
3. [41] Same amount of monitoring
4. [2] Somewhat less monitoring
5. [1] Much less monitoring

13. How often, if ever, have you as a contracting officer overruled a negative pre-award survey, and made the award to a small business contractor primarily to avoid any delay associated with the SBA COC program? (Check one.)

(29)

1. [1] Very often
2. [1] Often
3. [13] Occasionally
4. [20] Seldom
5. [65] Never

(077058)

14. How many years of government procurement experience do you have? (Check one.)

(30)

1. [12] One to five
2. [26] Six to ten
3. [19] Eleven to fifteen
4. [18] Sixteen to twenty
5. [26] More than twenty

15. What is the level of your contracting authority or level of warrant? (Check one.)

(31)

1. [15] Up to \$100,000
2. [12] Up to \$500,000
3. [7] Up to \$1,000,000
4. [66] Over \$1,000,000

16. If you have any further comments about the COC program or COC contracts, including any suggestions for program improvements, please write them below (if more space needed please continue on back).

(32)

Made comment - 45

Did not comment - 55

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