

Text Based Accessible File
Certificate of Competency
Program Overview

Slide 1 Certificate of Competency

U.S. Small Business Administration
Office of Government Contracting & Business Development
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This is about helping small businesses win federal contracts.
Welcome to SBA's training module, Certificate of Competency – Program Overview.

Slide 2 Introduction

The Certificate of Competency Program is designed to help small firms qualify for specific contracts...

More precisely, the program allows a small business to appeal a contracting officer's determination that it is unable to fulfill the requirements of a government procurement on which it is otherwise in line to receive.

The program further allows the Small Business Administration to review the circumstances and, if applicable, issue a certificate of competency on behalf of the contractor to the contracting officer. The applicant must be able to demonstrate that it is sufficiently responsible to perform on the contract.

Slide 3 Question of Responsibility

The question of responsibility...

Before any large or small business can be awarded a federal contract, a contracting officer must affirmatively determine that the firm is responsible to perform the specific contract it is otherwise in line to receive. This question of responsibility is the foundation of the COC program.

Contract responsibility standards are outlined in FAR Subpart 9.1.

Slide 4 Course Objectives

The objectives of this training exercise are to: (1) provide a meaningful overview of the COC program, and (2) assist contracting officers and others to better understand and to more efficiently use the COC program.

Slide 5 Course Contents

The course provides an overview of the COC program.

Specifically, it outlines the COC referral process, describes small business eligibility requirements, highlights key aspects of the application process and describes SBA's role in reviewing COC applications and administering the program.

Slide 6 Program Summary and Governance

Program summary and governance.

Slide 7 Program Purpose

The purpose of the program...

The COC program provides a written certification -- from the SBA to the contracting officer -- that a designated small business has the capability to perform on a specific government contract. It provides a small firm with an avenue of appeal to a contracting officer's negative determination that it is not sufficiently responsible to fulfill the requirements of a specific federal procurement. The issuance of a COC can only be initiated by a contracting officer's referral.

The Certificate of Competency Program helps a small business establish or reestablish itself as a viable government contractor.

Slide 8 COC Program Governance

Governance...

The COC program is an important small business tool in federal contract markets. It was established by Section 8(b)(7) of the Small Business Act and is primarily governed by 13 CFR 125.5 and FAR Subpart 19.6.

Slide 9 Referral of Non-Responsibility to SBA

Referral of non-responsibility to the SBA.

Slide 10 The COC Referral

The basis of the COC program is the referral...

When a contracting officer determines that a potentially successful small business contract-offeror lacks certain elements of responsibility, including but not limited to capability, competency, capacity, credit, integrity, perseverance, tenacity and limitations on subcontracting – the CO is required to refer the matter in writing to the SBA.

The referral must include: the solicitation; a copy of the offer submitted by the small business; abstract of bids (if applicable); pre-award survey (if applicable); the CO's written determination of non-responsibility; technical data package; and, any other justification or determination used to arrive at the non-responsibility determination.

Importantly, the COC referral must indicate that the offeror has been found to be responsive regarding some elements of the solicitation, but it must also clearly identify the reasons for the determination of non-responsibility.

Slide 11 Contract Award Withheld – 15 Days or Longer

Upon referral to the SBA -- with all required documentation in-place, the contract award must be withheld by the contracting officer for a period of at least 15 working days – or longer if agreed to by both the SBA and the contracting officer.

Slide 12 Eligibility Requirements for COC Consideration

Eligibility requirements for COC consideration.

Slide 13 Burden of Proof

The burden of proof is on the small business offeror...

Once a contracting officer's COC referral is received by the SBA, the agency will then inform the small business of the CO's determination and offer it the opportunity to apply to the SBA for a Certificate of Competency – by a specific date.

The offeror must be able to demonstrate to the SBA that it is eligible for COC consideration. That is, the ***burden of proof*** is on the business to show that it meets specific COC eligibility criteria regarding small business size standards, type of business, performance requirements and end products being delivered.

Slide 14 Qualify as Small Business

Importantly, the business must qualify as a small business under the size standard applicable to the procurement. If the procurement does not specify a size standard or NAICS code, SBA will assign the appropriate size standard to determine COC eligibility.

A firm applying for a certificate of competency will be required to submit, among other documents, SBA Form 355, Application for Small Business Size Determination to the SBA.

Slide 15 Limitations on Subcontracting Requirements

Limitations on subcontracting...

If an acquisition is set-aside or reserved, a small business offeror must agree to comply with applicable limitations on subcontracting requirements. This is a general tenet applicable to most small business set-asides.

Therefore, **agreeing to comply** with limitations on subcontracting requirements is a matter of proposal acceptability and an important requirement for COC eligibility. However, **being able to comply** with limitations on subcontracting requirements is a matter of responsibility and is thus an issue that may be addressed with a certificate of competency.

There is an important distinction between agreeing to comply and being able to comply with limitations on subcontracting requirements. This distinction is unique to the COC program.

Slide 16 Non-Manufacturer Small Firms

A small firm that is a non-manufacturer -- making an offer on a small business set-aside for supplies, must furnish end items manufactured in the United States by a small business. Further, a non-manufacturer small firm, making an offer on an unrestricted procurement or procurement utilizing simplified acquisition procedures, with a cost not exceeding \$25,000, must also furnish end items manufactured in the United States.

A waiver of the non-manufacturer's rule may be requested by the contracting officer for either the type of product being purchased or the specific contract at issue.

Slide 17 Assemblers of Kits

An offeror intending to provide a kit consisting of finished components or other components provided for a special purpose is also eligible for COC consideration. However, it must meet certain criteria. Specifically:

1. it must meet the size standard for the NAICS code assigned to the procurement;
2. each component of the kit is required to be manufactured in the US; and,
3. for a set-aside, each component of the kit is required to be manufactured by a small business that meets the size standard applicable to the component --- unless the contracting officer has received a waiver for this requirement.

Slide 18 COC Application Process

COC application process.

Slide 19 Notification by the SBA

As referenced earlier, “the referral” is the basis of the COC program. It is also the start-point for the application process.

In federal procurement markets, the contracting officer is required to refer a small business -- who is the apparent successful offeror, but found non-responsible – to the SBA for COC consideration.

The SBA’s area office will then inform the business of the contracting officer’s determination and offer the firm the opportunity to apply for a certificate of competency. If the firm agrees to apply, it must do so by submitting all required documentation to the SBA by a specified date.

Slide 20 Required Documentation

Required documentation...

When the SBA area office notifies an offeror about applying for a certificate of competency, it will identify specific forms and documents to be submitted.

Every case is different, but in most circumstances the applicant will be requested in writing to submit: SBA Form 1531, “Application for Certificate of Competency;” SBA Form 355, “Application for Small Business Size Determination;” SBA Form 74B, “Monthly Cash Flow;” other specific forms and information identified in the agency’s instructions; and any additional information the small business considers necessary to demonstrate its ability to satisfy the requirements in the solicitation.

Slide 21 Application Must be Complete and Timely

The COC application must include all information and documentation requested by the SBA and any additional information which the firm believes will help demonstrate its ability to perform on the contract. Importantly, the requested information must be complete and submitted prior to the date specified by the SBA.

If an application for a COC is incomplete or not timely, SBA may close the case without issuing a COC and will notify the contracting officer and the small business offeror with a letter of declination.

Slide 22 Review of the Application

Review of the application.

Slide 23 Review Process

The COC review process is comprehensive.

A team of SBA financial and technical specialists will review all COC applications. The review process is not limited to the areas of non-responsibility cited by the contracting officer. Rather, SBA may at its discretion, independently evaluate the COC applicant for all elements of responsibility, but it may presume responsibility exists as to elements other than those cited as deficient.

Importantly, SBA may deny a COC application for reasons of non-responsibility not originally cited by the contracting officer.

Slide 24 COC Decision by the SBA Director

After reviewing the COC application submitted by the small firm and other information gathered by the SBA, the agency's area director will make a determination, either final or recommended as outlined in the highlighted chart.

The appropriate SBA director is the agency's area director closest to the headquarters location for the offering firm.

Slide 25 Notification of Intent to Issue a COC

If the SBA determines that a COC is warranted, the area director will notify the contracting officer -- or the procurement official with the authority to accept SBA's decision -- of the intent to issue a COC, and of the reasons for that decision, prior to issuing the COC.

At the time of notification, the contracting officer with the authority to accept SBA's decision has three options: (1) accept the area director's decision to issue the COC and award the contract to the small business; (2) request the area director to suspend the case to allow for additional review; or, (3) formally appeal the area director's decision.

Slide 26 Appeal of a COC Determination

The appeal of a COC determination...

For COC actions with a value exceeding \$100,000, a contracting officer may appeal an area director's decision to issue a COC to SBA Headquarters by filing an appeal with the area office processing the COC application. The area office must honor the request to the appeal if the contracting officer agrees to withhold the award of the contract until the appeal process is concluded. Without such an agreement, the area director must issue the COC. When such an agreement has been obtained, the area office will immediately forward the case file to SBA Headquarters. **It is important to note, only a contracting officer may appeal the area director's decision to deny a COC.**

SBA Headquarters will furnish written notice to the OSDBU director of the procuring agency, with a copy to the contracting officer, that the case file has been received and that an appeal decision may be requested by an authorized official. If the contracting agency decides to file an appeal, it must notify SBA Headquarters through its OSDBU director within 10 working days -- or a time period agreed upon by both agencies -- of its receipt of the notice.

The appeal and any supporting documentation must be filed within 10 working days -- or a different time period agreed to by both agencies -- after SBA receives the request for a formal appeal.

Slide 27 Appeal – Requested Through SBA Headquarters

In those cases where a COC appeal is requested through SBA Headquarters and the contract amount exceeds \$25 million, SBA before making a final decision, will take an additional step and contact the contracting agency at the secretariat or equivalent level. It will provide the contracting agency with two additional options: (1) ask SBA to suspend the case so that the agency can meet with SBA Headquarters staff and review all documentation in the COC case file; or (2), submit to SBA Headquarters any new or additional information which the contracting agency believes has not been considered.

After reviewing all available information, the SBA Director, for the Office of Government Contracting will make a final determination, in writing, to issue or to deny the COC.

Slide 28 Reconsideration – After COC Issuance

Reconsideration...

An approved COC may be reconsidered and possibly rescinded, at the sole discretion of the SBA, where an award of the contract has not occurred, and one of the following circumstances exists: (1) the COC applicant submitted false or omitted materially adverse information; (2) new adverse information has been received relating to the current responsibility of the applicant concern; or (3) the COC has been issued for more than 60 days -- in which case SBA may investigate the business concern's current circumstances and the reason why the contract has not been issued.

Slide 29 Effect of COC

Effect of a COC.

A certificate of competency is conclusive as it pertains to responsibility. That is, if the SBA issues a COC on behalf of a small business with respect to a particular contract, the contracting officer is required to award the contract without requiring the firm to meet any other requirement with respect to responsibility.

Further, if the SBA issues a COC with respect to a referral as discussed earlier in this training program, the contracting officer is not required to issue an award to that offeror if the contracting officer denies the contract for reasons unrelated to responsibility.

Slide 30 Effect of Denial

Effect of denial.

Denial of a COC by SBA does not preclude a contracting officer from awarding a contract to the referred firm, nor does it prevent the concern from making an offer on any other procurement.

Slide 31 Performance of the Contractor

Performance of the contractor.

Slide 32 Monitoring Performance

Once a COC has been issued and a contract awarded, the SBA will carefully monitor the performance of the contractor.

Slide 33 Resources and Tools

Resources and tools.

Slide 34 Resources and Tools

Numerous resources are available to assist individuals who are interested in learning more about the Certificate of Competency Program.

Slide 35 Resources and Tools

Use these resources to become better informed.

Slide 35 Contact Us...

Thank you for taking the time to learn about the Certificate of Competency Program..

Much information has been discussed and we hope it is helpful. Please contact us with any questions you may have. Also, consider viewing other training modules in SBA's online Government Contracting Classroom.

Thank you.

Hyperlinks Contained in this Course

GC Classroom www.sba.gov/gcclassroom

SBA Size Standards Tool <http://www.sba.gov/tools/size-standards-tool>

Table of Small Business Size Standards <http://www.sba.gov/content/small-business-size-standards>

SBA Form 1531 http://www.sba.gov/sites/default/files/tools_sbf_finasst1531_0.pdf

SBA Form 355 <http://www.sba.gov/content/information-small-business-size-determination>

Certificate of Competency Program – SBA Web Support <http://www.sba.gov/content/certificate-competency-program>

SBA COC Contacts and Area Offices

<http://www.sba.gov/sites/default/files/files/COC%20Contacts%20and%20Representatives%20FY%202011.pdf>

Federal Acquisition Regulations <http://www.acquisition.gov/far/>

North American Industry Classification System <http://www.census.gov/eos/www/naics/>

Federal Supply Group and Class <http://www.dlis.dla.mil/hcfsch21.asp>

SAM www.sam.gov

Code of Federal Regulation (13CFR)

<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>

SBA Government Contracting <http://www.sba.gov/about-offices-content/1/2986>

Procurement Technical Assistance Centers http://www.aptac-us.org/new/Govt_Contracting/find.php

SBA Size Standards <http://www.sba.gov/content/am-i-small-business-concern>

Women's Business Centers <http://www.sba.gov/content/womens-business-centers>

SCORE <http://www.score.org/chapters-map>

WOSB Information www.sba.gov/wosb

Office of Women's Business Ownership <http://www.sba.gov/about-offices-content/1/2895>

Small Business Development Centers <http://www.asbdc-us.org/>

SBA District Offices <http://www.sba.gov/about-offices-list/2>