

SBA's Certificate of Competency (COC) Program

What is a Certificate of Competency (“CoC”)?

- A CoC is an appeal process. You are appealing a Contracting Officer’s **Determination of Nonresponsibility (“DNR”)** against your firm. You may also decline to appeal a **DNR** to pursue other, more profitable opportunities.
- A CoC is for competitive awards only. A Contracting Officer has sole discretionary authority over a sole source award.
- Only a Contracting Officer can determine whether a firm is responsible or nonresponsible for a specific solicitation. SBA can’t do this for you prior to a Contracting Officer making his or her determination.
- SBA is a neutral, third-party administrator of this appeal process. SBA determines whether the firm successfully overcomes the concerns cited in the Contracting Officer’s **DNR**.

Contractor “Responsibility”

Satisfying the Elements of Contractor Responsibility is a prerequisite for any Offeror to receive any federal contract under the Federal Acquisition Regulations (“FAR”).

“Purchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only.”

“No purchase or award shall be made unless the contracting officer makes an affirmative determination of responsibility.”

FAR 9.103

The Elements of Contractor Responsibility

FAR 9.104-1: “To be considered responsible, a prospective contractor must:

- (a) Have adequate **financial** resources...or the ability to obtain them...;
- (b) Be able to comply with the required or proposed delivery or **performance schedule**, taking into consideration all existing...business commitments;
- (c) Have a satisfactory **performance record** ...
- (d) Have a satisfactory record of **integrity** and business ethics;
- (e) Have the necessary **organization, experience, accounting and operational controls, and technical skills**, or the ability to obtain them...;
- (f) Have the necessary **production, construction, and technical equipment and facilities**, or the ability to obtain them... ; and
- (g) Be otherwise qualified and eligible to receive an award [i.e., not on SAM exclusion list, etc.]”

The ability to comply with the **limitations on subcontracting** is also an element of contractor responsibility per FAR 9.104-3(d)(2).

The Elements of Contractor Responsibility

Each element of Contractor Responsibility will be defined by (1) the solicitation's requirements; (2) its evaluation criteria; and/or (3) the Contracting Officer's discretionary judgment (and authority).

A firm that is qualified for contract award will have the expertise to understand the challenges associated with a particular procurement, and to articulate in writing their qualifications for it.

When Does it Apply?

“A Contracting Officer shall, upon determining an **apparent successful** small business offeror to be nonresponsible, refer that small business to the SBA for a possible CoC....”

FAR §19.601(c) & 13 C.F.R. §125.5(a)(2)

Exception to Apparent Awardee Status

When offerors are eliminated from further proposal evaluation based on a Pass/Fail responsibility-type issue. This evaluation technique is typically employed in anticipation of receiving 100s or 1,000s of proposals to screen-out weak candidates.

“Refuses to consider a [firm] ... after evaluating [it] on a non-comparative basis (e.g., a pass/fail, go/no go, or acceptable / unacceptable) under one or more responsibility type evaluation factors (such as experience of the company or key personnel or past performance)...” i.e., a referral to SBA for a CoC is required.

13 C.F.R. §125.5(a)(2)(ii)

Scope of CoC Regulations

- “The CoC program is applicable to all Government acquisitions... Contracting officers, including those located overseas, are required to comply with this subpart for U.S. small business concerns.”

FAR 19.601

- “The CoC procedures apply to all Federal procurements, regardless of the location of performance or the location of the procuring activity.

13 C.F.R. §125.5(a)(1)

CoC Process Overview

- **Only a Contracting Officer (“CO”)** can issue a Determination of Nonresponsibility and **initiate a CoC referral to SBA**. SBA will contact the firm only after the CO submits a valid referral.
- SBA will provide the firm with only the CO’s general area of concerns. SBA cannot/does not disclose detailed, procurement-sensitive evaluation information.
- Firm has 6 workdays to submit a complete CoC application to SBA. This includes a written narrative that convincingly overcomes the CO’s concerns.
- SBA’s CoC Area Review Board evaluates the firm’s response in relation to CO’s concerns; recommends approval or decline; and forwards its deliberations to the Area Director for final decision.

CoC Decisions

If SBA declines to issue a CoC:

- The small business has no right to appeal a CoC decline.
- The Contracting Officer is free to move to the next apparent successful offeror—which could be the subject of a separate CoC referral.

When SBA approves a firm for a CoC:

- The contracting officer must award the contact to that firm per FAR 19.602-4(b), unless the firm was referred for failing a Pass/Fail responsibility criterion per 13 CFR 125.5(a)(2)(ii), in which case the agency simply resumes its evaluation where it left off.
- The contracting officer may appeal SBA's Area Office decision to SBA Headquarters under certain circumstances.

CoC Contacts Nationwide

If the HQ of the offeror is located in:

AREA I: Northeast

CT, ME, MA, NH, NJ, NY, RI, VT

AREA II: Mid-Atlantic

DE, DC, MD, PA, VA, WV

AREA III: Southeast

AL, FL, GA, KY, MS, NC, SC, TN

AREA IV: Midwest

IL, IN, IA, KS, MI, MN, MO, NE, OH, WI

AREA V: Central

AR, CO, LA, MT, ND, NM, OK, SD, TX, UT, WY

AREA VI: West

AK, AZ, CA, HI, ID, NV, OR, WA

the CoC must be sent to:

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Vacant
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Questions

