

*J. Thomas*



Comptroller General  
of the United States  
Washington, D.C. 20548

# Decision

**Matter of:** VIP Properties  
**File:** B-270421  
**Date:** November 15, 1995

## DECISION

VIP Properties protests the award of a contract to Arco Management Corporation by the Department of Housing & Urban Development under request for proposals No. 007-95-092, issued as a small business set-aside.

We dismiss the protest. VIP questions the small business size status of Arco. However, questions as to another company's size status do not fall within our bid protest function; rather, this is a matter for consideration by the Small Business Administration (SBA). Also, we will not review a decision by the SBA that a company is, or is not, a small business for purposes of federal procurements. Survive Eng'g Co., B-235958, July 20, 1989, 89-2 CPD ¶ 71; Antenna Prods. Corp., B-227116.2, Mar. 23, 1988, 88-1 CPD ¶ 297.

VIP also seems to contend that the proposal evaluation was improper because it was conducted before VIP had a chance to furnish certain required standard forms. However, VIP has not provided any factual information, documentation, or evidence to explain or support this allegation; VIP has not alleged for example, that it would have received the award but for the absence of the forms. Such a submission does not set forth a valid basis for protest. Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds of a protest, Section 21.1(c)(4), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.1(c)(4)), and that the grounds stated be legally sufficient. Section 21.1(e), 60 Fed. Reg. supra (to be codified at 4 C.F.R. § 21.1(e)). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Robert Wall Edge-Recon., 68 Comp. Gen. 352 (1989), 89-1 CPD ¶ 335.

Finally, VIP argues that the agency should have conducted discussions before making award. As VIP itself notes, however, the solicitation specifically advised

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offerors that award might be made based on initial proposals. The agency's actions were consistent with this advice.

The protest is dismissed.

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