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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-201062

DATE: March 30, 1981

MATTER OF: Fermont Division, Dynamics Corporation
of America

DIGEST:

1. ~~1.~~ Protest alleging procurement should not have been set aside for small business concerns is denied because whether procurement should be set aside is within authority and discretion of contracting officer and GAO will not substitute its judgment where, as here, there is no clear showing of abuse of discretion.
2. Once determination is made that small business set-aside is proper, large business protester is no longer interested party and GAO will not consider its objection to other aspects of RFP.

Fermont Division, Dynamics Corporation of America (Fermont), protests the issuance of request for proposals (RFP) FD2040-81-50114, as a total small business set-aside by the Department of the Air Force.

Fermont contends that the RFP's delivery schedule will not satisfy the minimum delivery requirements of the user agency as required by Defense Acquisition Regulation (DAR) § 1-305.2(a) (1976 ed.) and that the delivery schedule is unrealistic for a small business to meet. As the delivery schedule is unrealistic, Fermont believes the Air Force's determination that there would be a sufficient number of responsible small business offerors so as to insure reasonable prices is unreasonable and violates DAR § 1-706.5(a)(1). Finally, Fermont contends the Government is aware that the RFP specifications require correction of

[PROTEST INVOLVING SET-ASIDE PROCUREMENT]

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errors in the drawings and specified material, but has not corrected these errors as required by DAR § 3-505(a).

DAR § 1-706.5(a)(1) provides that procurements shall be set aside for exclusive small business participation if the contracting officer determines that there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns and award will be made at a reasonable price.

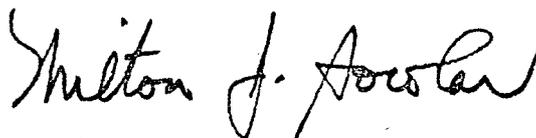
A determination that a particular procurement is to be set aside exclusively for small business is a judgment which requires exercise of broad discretion by the contracting officer. We will not substitute our judgment for that of the contracting officer in the absence of a clear showing of abuse of the discretion permitted him. All American Engineering Company, B-197974, June 23, 1980, 80-1 CPD 440; Fermont Division, Dynamics Corporation of America; Onan Corporation, B-195431, June 23, 1980, 80-1 CPD 438; Otis Elevator Company, B-194147, May 10, 1979, 79-1 CPD 331.

The record in this case does not indicate that the contracting officer abused his discretion in determining that this procurement should be a total small business set-aside. The contracting officer here made the determination that this particular procurement was an appropriate one for a small business set-aside and the response to the RFP clearly demonstrates the expectation of adequate competition was accurate. The procurement history shows four proposals from small business firms were actually received, three of which were determined to be in the competitive range, and the preaward survey of the low offeror concluded it has the ability to perform the contract. Therefore, we find the contracting officer had a reasonable basis for his expectation that sufficient competition would exist for a small business set-aside.

Fermont also challenges the delivery schedule and the failure to make correction of errors in the specifications. The Bid Protest Procedures of this

Office provide that only an "interested party" may file a protest. 4 C.F.R. § 20.1(a) (1980). Fermont is an interested party only with respect to the legitimacy of the small business set-aside. Once the set-aside has been determined to be valid, Fermont, as a large business, is not eligible for the contract award and cannot be considered an interested party to challenge other aspects of the procurement. All American Engineering Company, supra. Therefore, GAO will not consider these objections.

The protest is denied in part and dismissed in part.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General
of the United States

