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DECISION

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

FILE: B-203385

DATE: October 26, 1981

MATTER OF: Contraves Goerz Corporation

DIGEST:

A decision to conduct a procurement as a total small business set-aside is reasonable where it is based on advice to contracting officer of six qualified small businesses, notwithstanding erroneous inclusion of a large business among the six. The identification of four potential offerors with directly applicable experience in related fields is sufficient by itself to support the set-aside and the erroneous inclusion of the large business is irrelevant.

Contraves Goerz Corporation (Contraves), a large business, protests the Department of the Army's issuance of solicitation No. DAAK11-81-Q-0113 as a total small business set-aside. We find the protest to be without merit.

The solicitation is for the research, development and demonstration of a ballistic flight simulator capable of imparting realistic free-flight motions to a complete 155-mm. artillery projectile. The scientific and theoretical bases for the required simulator are described in a series of equations in the solicitation which also notes that no device of this particular type has been built before.

The contracting officer's decision to issue the solicitation as a small business set-aside was made after a consultation with the project manager in which eight potential sources were identified, including six firms believed to be small businesses. Of these latter six firms, two were identified as having experience in flight simulators and four companies were identified with experience in closely related fields. Contraves was mistakenly considered to be a small business and was one of the two firms with flight simulator experience.

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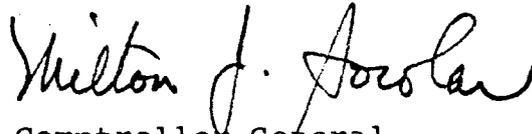
Under the Defense Acquisition Regulation (DAR) § 1-706.5(a)(1) (1976), research and development procurements may be set aside for small businesses if there is a reasonable expectation that offers will be received from two or more responsible small businesses capable of providing the best scientific and technological sources at reasonable prices. Contraves contends that the contracting officer's determination to set this procurement aside for small business was arbitrary because (1) the procurement is so complex and demanding that only a firm with direct experience in the flight simulator field could reasonably be expected to perform the contract successfully; (2) there is only one small business with such experience, and (3) therefore, the contracting officer could not reasonably expect to receive offers from two or more qualified small businesses. Contraves also contends that the contracting officer should have known that Contraves was not a small business and could not reasonably have relied on the erroneous advice that Contraves was small.

Contraves' protest fails because its first premise fails. The presence in this solicitation of the equations describing the theoretical and scientific bases for the simulator persuades us that the problem to be approached is the design and implementation of a new device capable of simulating (and withstanding) known or calculable stresses and forces. In other words, it is essentially a difficult engineering problem, rather than a problem in scientific research, and a firm's potential qualifications to do the job could legitimately be inferred from its engineering experience in similar endeavors. We note in this connection that, because this is a new device, we find no particular reason, and Contraves has suggested none, why flight simulator experience should be inherently more valuable than experience in a closely related field. (The term "flight simulator" itself encompasses a broad range of devices ranging from the familiar imitation airplane cockpits used to train pilots to the type of motion-study device envisioned here. As a result, "flight simulator" experience may in fact be completely unrelated to the procurement.) All four of the small businesses identified to the contracting officer as having related experience have previously demonstrated sophisticated engineering skills directly applicable to this procurement.

We think this information, by itself, was sufficient to support a reasonable expectation of receiving offers from more than two qualified small businesses and that Contraves' erroneous consideration as a small business was therefore irrelevant. Furthermore, we find nothing in the DAR requirement for obtaining the best scientific and technological sources which would preclude the consideration of small businesses with clearly applicable related experience.

As our Office has previously held, the determination of whether a procurement should be set aside is within the discretion of the contracting officer and we will not substitute our judgment absent a showing of an abuse of discretion. Otis Elevator Company, B-196076, February 1, 1980, 80-1 CPD 86. Based on the above, we find the contracting officer's decision to conduct this procurement as a small business set-aside to have been reasonable.

The protest is denied.



Acting Comptroller General
of the United States