

DECISION

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

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FILE: B-212795

DATE: September 29, 1983

MATTER OF: Ameriko Maintenance Co., Inc.

DIGEST:

1. Selection of contractor for award under section 8(a) of Small Business Act and contracting agency's decision to combine several contracts into one for 8(a) set-aside are basically within the discretion of contracting agency and will not be questioned absent a showing of fraud or bad faith on part of government officials or allegation that SBA regulations were violated.
2. GAO has no authority under the Freedom of Information Act to determine what information must be disclosed by government agencies.

Ameriko Maintenance Co., Inc. (AMC), protests the selection of another company for the award of a contract under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (Supp. III, 1979), under solicitation No. N62474-83-B-8499, for custodial service, ground maintenance, rubbish collection and guard service at the Naval Amphibious Base and Navy Outlying Landing Field (Navy), San Diego, California.

AMC maintains it is unfair for the Navy to award the contract to another 8(a) contractor, without open competition, when it has satisfactorily performed the contract under the 8(a) program for 3 years. Also, AMC alleges that the contract format of combining several unrelated contracts into one contract will increase the Government's cost because no one contractor can provide four separate services effectively without subcontracting. AMC requests contract prices for the four prior contracts and for the current contract under negotiation.

We will not consider the matter. The selection of an 8(a) contractor, as well as the contracting agency's decision to combine several unrelated contracts into one for the purpose of setting aside an 8(a) contract, is basically within

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the discretion of the SBA and the contracting agency and we will not question such decisions, unless fraud or bad faith on the part of government officials can be shown or it is alleged that SBA did not follow its own regulations. See J.R. Pope, Inc., B-204230, August 10, 1981, 81-2 CPD 114; Broken Lance Enterprises, Inc., B-208932, September 21, 1982, 82-2 CPD 257. There is no showing that the contracting agency's decision to combine several contracts into one as an 8(a) set-aside was fraudulent or an act of bad faith nor an allegation that SBA did not make the award in accordance with its regulations.

Moreover, any information sought concerning the price of the four prior contracts against the current contract is properly pursuable at the administrative agency under the procedures provided by the Freedom of Information Act. See Westec Services, Inc., B-204871, March 19, 1982, 82-1 CPD 257.

Accordingly, we dismiss the protest.

Harry R. Van Cleve
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Acting General Counsel