

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

26866

FILE: B-213225.2

DATE: November 21, 1983

MATTER OF: Adam II, Ltd.

DIGEST:

GAO has no authority to order the suspension of procurement proceedings or to stay an award of contract pending the Small Business Administration's review of the small business size standard used in the solicitation.

Adam II, Ltd. (Adam), protests any award of a contract under invitation for bids (IFB) No. F49642-83-B-1018, a small business set-aside for repair and maintenance of housing issued by the Department of the Air Force (Air Force). Adam believes that the solicitation's small business standard is not appropriate and requests that the bid opening date be stayed until the Small Business Administration (SBA) can determine the applicable standard. We dismiss the protest.

Our Office has no authority to order the withholding of an award in general, or otherwise to require that procurement proceedings be delayed or suspended in this type of situation. Elliot Horne Contract Services Co., B-212435, August 22, 1983, 83-2 CPD 223. According to the applicable regulations, if the contracting officer receives a ruling by the Small Business Administration's Size Appeals Board on an appeal of a solicitation's small business size standard before the bid opening date, the solicitation must be modified to reflect the ruling. Defense Acquisition Regulation § 1-703(c)(3) (1976 ed.). It is up to the contracting officer whether to delay bid opening to await a ruling, however, and that decision is within his broad discretion. See Baird Corporation, B-210136, December 20, 1982, 82-2 CPD 556. If the Size Appeals Board ruling is not received until after bids are opened, the ruling will not apply to the current procurement, but will have prospective effect only, so that it does not affect the legality of the award. See Contract Services Co., Inc., B-210551, February 22, 1983, 83-1, CPD 176.

We note here that the size standard Adam is protesting has been revised by the Air Force as the result of a challenge by another firm. By decision dated September 14, 1983, the Size Appeals Board ruled that the proper size

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standard for this work was \$2 million, and the Air Force so modified the IFB. Thus, the appeal filed with the SBA by Adam is against a size standard specifically determined by the SBA.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel