

DECISION

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

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FILE: B-216152

DATE: August 30, 1984

MATTER OF: Janke and Company, Incorporated

DIGEST:

GAO will not review the Small Business Administration's compliance with its own internal guidelines for the Small Business Act's section 8(a) program absent a showing of possible fraud or bad faith on the part of government officials.

Janke and Company, Incorporated, protests the decision of the Department of the Navy to award a contract to the Small Business Administration (SBA) and the proposed award of a subsequent subcontract to JWM Corporation pursuant to section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1982). Section 8(a) authorizes the SBA to enter into contracts with any government agency having procuring authority and to arrange for performance by letting subcontracts to socially and economically disadvantaged small business concerns.

Janke indicates that the contracting officer has refused to provide it with a copy of an "impact study" considering whether the interests of other small businesses such as Janke were "justly" taken into account in deciding upon the proposed awards and expresses concern as to whether there has been full compliance with the proper procedures for making awards under the 8(a) program. We understand Janke to be alleging a possible failure to prepare an adequate assessment, as required under SBA's Standard Operating Procedures (SOP), of the impact on firms not in the 8(a) program of reserving the contract for the program.

We dismiss the protest.

Because of the broad discretion the Small Business Act affords the SBA and the contracting agencies in selecting efforts for 8(a) contracting, our review of actions under the program is essentially limited to determining whether

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B-216152

procurement regulations have been followed and whether there has been fraud or bad faith on the part of government officials. Moreover, the SBA's SOP merely provide internal SBA policies and guidelines that complement the SBA regulations implementing the 8(a) program at 13 C.F.R. part 124 (1984). We have held that we will not review the SBA's compliance with those internal procedures absent a showing of possible fraud or bad faith. MGL Construction, Inc., B-210766.2, April 25, 1983, 83-1 CPD ¶ 454.

Thus, a failure to prepare an adequate impact analysis does not in itself warrant our review of a decision to place a contract in the section 8(a) program. Since Janke does not suggest that there has been any fraud or bad faith here, the protest is dismissed.

for *Harry R. Wray*
Harry R. Van Cleve
Acting General Counsel