



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of:

National Civic League

File:

B-228030

Date:

August 14, 1987

DIGEST

Since "small business concern" is defined in Small Business Administration regulations as "for-profit" firm, protester, a non-profit firm, properly was found ineligible for award under procurement set aside for small business concerns.

DECISION

The Council on Municipal Performance, a division of the National Civic League (CMP), protests the rejection of its proposal under request for proposals (RFP) No. 87-24-CB, issued by the Small Business Administration (SBA) as a small business set-aside. SBA rejected the proposal because CMP, the entity in whose name the bid was submitted, is a non-profit organization. CMP challenges this action.

Competition on small business set-asides is limited to small business concerns. Small business concerns are defined by SBA as business entities "organized for profit." 13 C.F.R. § 121.3-2(i) (1987). Thus, CMP, a non-profit organization, properly was determined to be ineligible for the award of this set-aside contract. See BOSTI, Inc., B-200502, Oct. 15, 1980, 80-2 CPD ¶ 282.

This protest resulted in large part from the fact that the RFP did not explicitly state that non-profit organizations did not qualify as small business concerns, leading CMP to expend time and energy responding to the RFP. CMP states it would have submitted its proposal in the name of a for-profit affiliate had it been aware of this requirement.

Although CMP feels it was misled into a fruitless expenditure of its resources, we must point out that since SBA's definition of "concerns" as those "organized for profit" was published in the Federal Register (and codified in the Code of Federal Regulations), CMP is charged with

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notice of that definition. BOSTI, Inc., B-2200502, supra.
Thus, we do not consider the RFP's failure to repeat this
definition a basis for sustaining a protest.

The protest is dismissed.


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General Counsel