



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: E.L. Hamm & Associates, Inc.--Reconsideration

File: B-231444.2

Date: August 19, 1988

DIGEST

Where protester would not be eligible for award under a set aside pursuant to section 8(a) of the Small Business Act, protest against cancellation of procurement under the 8(a) program is dismissed. The protester lacks the requisite direct economic interest to be considered an interested party since it would not be eligible to compete for the contract even if the protest were sustained.

DECISION

E.L. Hamm & Associates, Inc., requests that we reconsider our dismissal of its protest against the cancellation of request for proposals (RFP) No. N00189-86-R-0062 issued by the Naval Supply Center, Norfolk, Virginia, for microfilming services. Award under this solicitation was originally contemplated under the Small Business Administration's (SBA) 8(a) set-aside program. We dismissed ELH's protest against the Navy's dissolution of the 8(a) set-aside because decisions whether to procure under the SBA's 8(a) program are not reviewed by the General Accounting Office absent a showing of possible fraud or bad faith on the part of government officials, or that specific regulations have been violated. 4 C.F.R. § 21.3(m)(4) (1988).

The request for reconsideration is dismissed.

ELH now alleges a violation of specific regulations and bad faith by Navy contracting officials. ELH asserts that the Navy acted in bad faith by promising to award a 3-year contract in order to induce ELH to provide the services on a month to month basis. ELH also states that the Department of Defense regulations were violated by withdrawing the requirement from the 8(a) program.

The Navy points out, and ELH does not dispute, that ELH does not qualify under the 8(a) program because the SBA has stated that ELH exceeds the monetary limitation of the

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applicable standard industrial classification code. The Navy contends that since ELH is not an eligible 8(a) firm it is not an interested party to protest.

Under our Bid Protest Regulation, 4 C.F.R. § 21.1(a), a protester must have a direct economic interest which is affected by the award of a contract in order to be considered an interested party. Here, even if ELH's protest were sustained, it would not be eligible to compete for the contract in question since it is not an eligible 8(a) firm. San Antonio General Maintenance, Inc., B-230152, Mar. 14, 1988, 88-1 CPD ¶ 263.

Accordingly, the request for reconsideration is dismissed without holding the conference requested by ELH, since to do so would serve no useful purpose. Id.

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