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**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Logistical Support, Inc.
File: B-234621
Date: May 24, 1989

DIGEST

Protest filed by non-disadvantaged small business concern which alleges that it is improper to conduct an Office of Management and Budget Circular No. A-76 cost-comparison by means of a total small disadvantaged business (SDB) set-aside, is denied in the absence of any authority prohibiting such a procurement and where the decision to set aside the procurement, based on the competitive results of a recent, similar, nearby procurement, is not alleged to represent an abuse of discretion on the part of contracting officials.

DECISION

Logistical Support, Inc. (LSI), protests the decision by the Air Force to conduct a cost comparison study by a solicitation restricted to small disadvantaged business (SDB) concerns. The protester maintains that eligible offerors should include all small business concerns. For the reasons stated below, we deny the protest.

The Air Force advises that ever since the Granite Inn dining facility at Cheyenne Mountain Air Force Base, Colorado, was established in 1963, food service attendant services there have been performed by an in-house work force. Request for proposals (RFP) No. F05604-89-R-0001 has been issued pursuant to Office of Management and Budget (OMB) Circular No. A-76 to determine whether it would be more economical for the services to continue to be performed in-house or by contract.

The procurement is restricted to SDB concerns. Logistical alleges that an A-76 review conducted in the context of a total SDB set-aside is improper because with such a limited pool of offerors the agency will not be able to reasonably determine the actual cost savings of contracting out the food service attendant service. The protester contends therefore, that the RFP should be amended to permit all small business concerns to compete as to be able to better

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ascertain the actual cost savings. Although LSI does not discuss its size status, we think that from the context of this protest as well as others which it has filed with our Office, it is reasonable to conclude that it is a small, although not a disadvantaged, business concern.

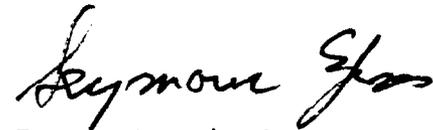
The Air Force points out that Department of Defense Federal Acquisition Regulation Supplement (DFARS) §-219.502-72 provides that an SDB set-aside may be utilized where the contracting officer determines that there is a reasonable expectation that (1) offers will be obtained from at least two responsible SDB concerns, and (2) award will be made at a price not exceeding the fair market price by more than 10 percent. Here, the contracting officer determined that this procurement should be a total SDB set-aside, in view of the fact that a recently awarded food service attendant contract at nearby Peterson Air Force Base was set-aside exclusively for SDB firms and offers were received from 10 responsive and responsible SDB firms, 2 of which were within 10 percent of the fair market price.

Generally, the decision to conduct a procurement as an SDB or small business set-aside is a business judgment generally within the discretion of the contracting agency which we will not question absent a clear showing of abuse. Superior Engineering and Electronics Co., Inc., B-231772, Aug. 31, 1988, 88-2 CPD ¶ 197. The protester has not attempted to demonstrate an abuse of discretion as to the agency's conclusion that it was appropriate under the DFARS criteria to set aside this procurement for small disadvantaged business concerns. Rather, the protester, who is not eligible to compete for this procurement because it is not an SDB, indirectly attacks the SDB set-aside on the basis that it is inconsistent with the purpose of an OMB Circular No. A-76 cost-comparison study in that as a result of the more restricted pool of potential offerors the government will not really know what cost savings could be achieved by contracting out and the chances are increased that the work will remain in-house.

Nevertheless, we are aware of no authority which prohibits the use of an SDB set-aside for an A-76 cost comparison study, provided the usual criteria for setting aside the procurement are met. Here, the protester has not disputed the contracting officer's determination, based on a recent, similar, nearby procurement, that an SDB set-aside was appropriate. We have no basis, therefore, to question the contracting officer's determination in this regard, which is a matter of agency discretion, as is the agency's decision whether to retain the services in-house or to contract out for them, providing the rules for conducting the cost

comparison as set forth in the solicitation are followed.
See Graphic Industries Assoc., B-211940, Nov. 21, 1983,
83-2 CPD ¶ 600.

The protest is denied.



James F. Hinchman
General Counsel