



Comptroller General
of the United States

Washington, D.C. 20548

Gray

Decision

Matter of: Service Resources, Inc.

File: B-240975

Date: September 5, 1990

Myrna E. Friedman, Esq., Sergeant & Friedman, P.C., for the protester.

DIGEST

Contract awarded on the basis of an initial Small Business Administration (SBA) determination that awardee was a small business is valid and is not required to be terminated because SBA on appeal concludes that awardee is other than small.

DECISION

Service Resources, Inc. (SRI) protests the award of a contract to Capitol Resource Management (CRM) under request for proposals No. 2-33384(BJY), issued by the Ames Research Center, National Aeronautics and Space Administration (NASA), as a small business set-aside.

SRI contends that after the source selection was announced on May 25, 1990, it timely protested CRM's small business size status. On June 29, 1990, the Small Business Administration (SBA) regional office determined that CRM was a small business concern; the contracting officer then made award to CRM.

SRI appealed, and on August 16, the SBA Office of Hearings and Appeals determined that CRM was not a small business concern. On August 28, NASA informed SRI that it did not intend to terminate the award to CRM.

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The contracting activity is not obligated to withhold an award pending the outcome of a size status appeal. See Ultra Technology Corp., B-230309.6, Jan. 18, 1989, 89-1 CPD ¶ 42. Consequently, when an award is made on the basis of a determination by the SBA's regional office, the award is valid and there is no requirement that it be terminated if the appeal is successful. Valley Constr. Co., B-234292, Feb. 8, 1989, 89-1 CPD ¶ 130. Since NASA awarded the contract on the basis of the SBA regional office determination that CRM was a small business, the award is valid.

The protest is dismissed.



Ronald Berger
Associate General Counsel