



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Dickson Press, Inc.

File: B-259661

Date: March 24, 1995

DECISION

Dickson Press, Inc. protests the award of a contract to Fayetteville Publishing Company, under request for proposals (RFP) No. DAKF40-94-R-0039, issued by the Department of the Army as a total small business set-aside for publication and distribution of a civilian newspaper entitled The Paraglide at Fort Bragg, North Carolina. The protester essentially argues that the awardee is a large business and as such is ineligible for award.¹

We dismiss the protest.

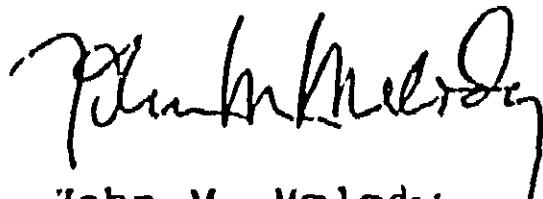
Dickson complains that the awardee failed to qualify as a small business concern under the solicitation's "Small Business Concern Representation," Federal Acquisition Regulation (FAR) § 52.219-1. Under this representation, a firm was to self-certify that it is a "small business concern," defined in the representation as "not dominant in the field of operation in which it is bidding on government contracts." Dickson maintains that dominance in the field of operation should be based on a local, not nationwide, standard; that the awardee's offer indicates that the firm is dominant in the newspaper and publishing business within the local Fort Bragg area; and that this renders the firm ineligible for award.

This protest is essentially a challenge to the awardee's small business size status. Contrary to the protester's contention, the 'not dominant' language has nothing to do with matters of responsiveness or responsibility. Rather, this language, contained in the definitional section of the "Small Business Concern Representation," clearly applies only to determinations of the status of a small business concern for purposes of the Small Business Act. 15 U.S.C. § 631 et seq. (1988). In this regard, 15 U.S.C. § 632(a)

¹The protester's additional argument that the agency evaluated proposals with unstated evaluation criteria was withdrawn after the protester received the agency report on the protest.

states that "[f]or the purposes of this chapter, a small business concern . . . shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation." The Small Business Administration (SBA) has conclusive statutory authority to determine matters of small business size status for federal procurement purposes, 15 U.S.C. § 637(b)(6). This obviously extends to the question of whether a firm is dominant in its field, since dominance is part of the statutory definition of a small business concern. Indeed, the SBA's regulations implementing this statutory authority specifically address dominance in a particular field. See 13 C.F.R. § 121.406 (1994). We conclude that dominance relates to small business size status, and that the determination of whether a small business concern is dominant falls within the exclusive domain of the SBA. See Blue Tee Corp.--Recon., B-258976.2, Jan. 5, 1995, 95-1 CPD ¶ _____. Accordingly, we will not consider the protest. See 4 C.F.R. § 21.3(m) (1995); Watson Agency, Inc., B-241072, Dec. 19, 1990, 90-2 CPD ¶ 506.²

The protest is dismissed.



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²To the extent that the protester believed that the awardee did not meet the small business size standards, it should have timely availed itself of the protest mechanism provided for in FAR § 19.302.