G A O
Accountability * Integrity * Reliability

Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: REEP, Inc.

File: B-290688

Date: September 20, 2002

Gilbert J. Ginsburg, Esq., for the protester.
Lt. Col. Daniel K. Poling, Department of the Army, for the agency.
Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's argument that another firm has an impermissible conflict of interest, and thus should be precluded from competing under solicitation, is dismissed as premature where award has not yet been made.

DECISION

REEP, Inc. protests the actions of the Department of the Army in connection with its effort to obtain language training services under the Federal Supply Schedule (FSS) using request for quotations (RFQ) No. DAKF23-02-Q-0059. REEP principally maintains that another firm, Worldwide Language Resources, Inc., has a conflict of interest, and that the agency should preclude it from competing for its language training requirements.

We dismiss the protest.

The agency advises our Office that it has made no award decision in connection with the acquisition. This being the case, REEP's protest merely anticipates what it considers improper action by the agency, namely, award to Worldwide. We recognize that it could be argued that the failure to exclude a firm with an alleged conflict of interest from a competition is a defect in a solicitation that should be challenged prior to the submission of proposals or quotations. See 4 C.F.R. § 21.2(a)(1) (2002). Solicitation provisions, however, are not generally the vehicle for excluding firms with a conflict of interest from competing for award; rather, conflicts are generally handled on a case-by-case basis without public notice through the solicitation. Moreover, treating protests such as this one as premature may avoid unnecessary litigation, since the allegedly conflicted firm may not be the eventual

awardee, either because it loses the competition or because the agency ultimately concludes that the firm has an impermissible conflict of interest. See Saturn Indus.--Recon., B-261954.4, July 19, 1996, 96-2 CPD ¶ 25 at 5. Unless the firm with the alleged conflict of interest is actually selected for award, the protester has not suffered any competitive prejudice; we will not sustain a protest absent a showing of such prejudice. McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996).

The protest is dismissed.

Anthony H. Gamboa
General Counsel