

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

6053

FILE: B-185333

DATE: June 30, 1976

MATTER OF: Associated Builders and Contractors, Inc. -
Reconsideration

98372

DIGEST:

Decision to utilize small purchase procedures rather than formal advertising for contracts of \$10,000 or less is not reviewable as a basis for bid protest. Upon reconsideration prior dismissal of protest is sustained.

Associated Builders and Contractors, Inc. (Associated Builders) has requested reconsideration of our decision B-185333, April 27, 1976, 76-1 CPD 283, where we held that the Army's decision to use small purchase procedures rather than formal advertising for contracts qualifying as "small purchases" (\$10,000 or less) will not be reviewed by this Office.

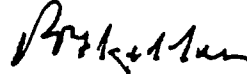
Associated Builders questions our rationale for not reviewing such decisions. Specifically, it challenges our statement that:

"Armed Services Procurement Regulation (ASPR) § 3-203.2 applies the authorizing language of 10 U.S.C. 2304(a)(3) (Supp IV, 1975) as a mandate, requiring the use of simplified procedures in ASPR § 3-600 et seq. for small purchases."

The protester believes the mandate contained in ASPR § 3-203.2 is subject to the requirement of 10 U.S.C. 2304(a) that formal advertising be determined not to be "feasible and practicable under existing conditions and circumstances." Moreover, it notes that ASPR §§ 1-300.2, 2-102.1(a) and 3-203.1 also require formal advertising if feasible and practicable. In addition the protester correctly contends that ASPR 18-302 gives the contracting officer discretion as to whether he will use small purchase procedures for procurements of construction for \$10,000 or less. Thus, any mandate to negotiate small purchases exists, according to the protester, only if the contracting officer first determines that formal advertising is not feasible and practicable.

As a practical matter, considering the cost of formal advertising in relation to the dollar amount of the procurement we would view the use of small purchase negotiation procedures as justified in any procurement for \$10,000 or less, regardless of other circumstances. See generally, "Ways for the Department of Defense to Reduce Its Administrative Costs of Awarding Negotiated Contracts, B-168450, September 17, 1973.

For the foregoing reasons, the decision is affirmed.



Deputy Comptroller General
of the United States