

DOCUMENT RESUME

03317 - [A2353482]

[Small Business Size Status]. B-189740. August 22, 1977. 1 pp.

Decision re: Associated Refuse & Compactions Services, Inc.; by Paul G. Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law II.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of the Navy: National Naval Medical Center, Bethesda, MD; Haul or Crawl Excavating Contractors, Inc.

Authority: 15 U.S.C. 637(b)(2). A.S.P.R. 1-703(b)(1). B-186798 (1976).

The protester objected to the award of a small business set-aside contract, claiming that the awardee is not a small business. Since conclusive authority over questions concerning small business size status is vested by law in the Small Business Administration, GAO will not consider protests involving this matter. (Author/SC)

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DECISION



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

G. Baumer
Proc II
GENERAL

FILE: B-189740

DATE: August 22, 1977

**MATTER OF: Associated Refuse & Compactions
Services, Inc.**

DIGEST:

Question concerning small business size status is not for consideration by GAO as conclusive authority over such matters is vested by statute in SBA.

Associated Refuse & Compactions Services, Inc. (ARCS) protests award to Haul or Crawl Excavating Contractors, Inc. (Haul or Crawl), the apparent low bidder under the National Naval Medical Center's Invitation for Bids (IFB) No. N62477-77-B-1664, a total small business set-aside. ARCS contends that Haul or Crawl is ineligible for the award, as it is an affiliate of Browning Ferris Industries, a large refuse hauling corporation. ARCS urges that the low bidder submitted its self-certification of small business status in bad faith.

According to Armed Services Procurement Regulation § 1-703(b)(1) (1976 ed.), any bidder challenging the small business status of any other bidder must file a timely protest with the contracting officer. ARCS has done so and the matter has been referred to the Small Business Administration (SBA) for determination. Under 15 U.S.C. § 637(b)(6) (1970), a determination by SBA of the small business size status of a bidder is conclusive and therefore is not a matter for consideration by this Office. See, e.g., Tate Engineering, Inc., B-186788, July 23, 1976, 76-2 CPD 76.

Accordingly, the protest is dismissed.

Paul G. Dembling
Paul G. Dembling
General Counsel