

DECISION



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

FILE: B-190957

DATE: January 13, 1978

MATTER OF: Tidewater Protective Services, Inc.

LIGEST:

Alleged violations by SBA of internal procedures under 8(a) program cannot be reviewed by GAO since GAO may review SBA determinations under 8(a) program only if SBA has not followed its regulations and no violation of regulations has been alleged by protester.

Tidewater Protective Services, Inc. (Tidewater) provided janitorial and mess attendant services for the Department of the Air Force at Langley Air Force Base under the section 8(a) subcontracting procedures of the Small Business Act (15 U.S.C. § 637(a) (1970), as amended by Pub. L. 95-89, 91 Stat. 551, approved August 4, 1977) and implementing regulations (13 C.F.R. § 124.8-1 (1977)).

Tidewater protests the Small Business Administration's (SBA) alleged failure to provide it with an opportunity to appeal the SBA decision to terminate its eligibility under the 8(a) program. It contends that the SBA has acted contrary to established SBA procedures, and therefore, there should be no new award until Tidewater has had an opportunity to present its case before the Board of 8(a) Appeals. Tidewater also contends that SBA has violated its standards by negotiating with a potential 8(a) contractor which is not domiciled within the region which has jurisdiction over the particular military installation where the work is to be conducted.

Our review of SBA action under the 8(a) program is limited to determining whether SBA has followed its regulations governing matters of this nature. Search Patrol Agency, Inc., Coastal Services, Inc., B-182403, April 3, 1975, 75-1 CPD 196. Moreover, we have held that because of the broad discretion afforded the SBA under the applicable statute, judgmental decisions under section 8(a), absent a showing of fraud or bad faith on the part of Government officials will not be questioned. Uets

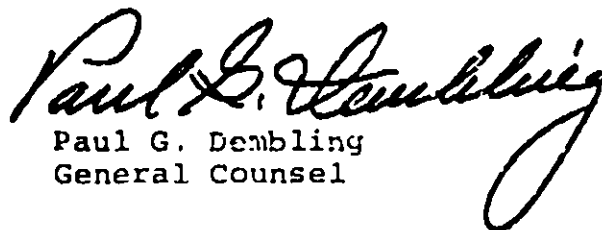
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Service, Inc., B-186066, May 4, 1976, 76-1 CPD 300. Fraud or bad faith is not shown by the mere allegation of a violation of standard operating procedures since they may be waived or revoked.

In this case the protester does not argue that either the right to appeal or the domiciliary requirements for 8(a) contractors are nondiscretionary requirements imposed by regulation. SBA's regulations do not deal with these matters. Cf. 13 C.F.R. § 124.8-1 and § 124.8-2 (1977). Rather, it appears that the protester's allegations involve matters of policy which may be waived or revoked and, therefore, such allegations are not reviewable. Wallace and Wallace Fuel Oil Company, Inc., B-182625, July 18, 1975, 75-2 CPD 48.

Accordingly, the protest is dismissed.


Paul G. Dembling
General Counsel