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*Feldman*  
*P. J. H.*  
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**DECISION**



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

**FILE: B-190544**

**DATE: February 17, 1978**

**MATTER OF: Hannin Roofing and Sheet  
Metal Company, Inc.**

**DIGEST:**

1. SBA decision that concern is not a small business is conclusive and not subject to review by GAO.
2. Where SBA conclusively determines that protester is ineligible for small business set aside, protest of procurement procedures utilized by agency is academic.

Hannin Roofing and Sheet Metal Company, Inc. (Hannin) protests the contract award by the General Services Administration (GSA) for roofing at the Federal Building and Courthouse in Paducah, Kentucky. Hannin has questioned GSA's rejection of its bid as unreasonably high and the procedures utilized by the agency to obtain reduced prices.

The project, a 100 percent small business set-aside, was formally advertised and Hannin was the low bidder. Because the Government estimate for the project was substantially less than the low bid, GSA rejected all bids submitted in the belief that they were unreasonable as to price. A resolicitation was effected by negotiation with Hannin and Langdale, Inc., the second low bidder under the original IFB. Based on Langdale's reduced price, GSA awarded it a contract. Subsequently, however, GSA determined that it had erroneously rejected the original bids submitted in response to the initial solicitation, and proposed to make an award to Hannin, the lowest eligible bidder under this solicitation. However, in a letter dated January 11, 1978, to GSA, the Small Business Administration (SBA) determined that Hannin was not a small business concern and therefore was ineligible for the contract.

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The determination by SBA that Hannin is not a small business was made pursuant to 15 U.S.C. § 637(b)(6) (1970), which authorizes the SBA to determine conclusively the size status of a business concern. Its determination, therefore, is not subject to review by our Office. M.C. & D Capital Corporation, B-189450, July 14, 1977, 77-2 CPD 31. Because GSA argues that Hannin's original low price is reasonable but the firm is not eligible to receive an award, its protest concerning the agency's rejection of its initial bid and the procedures utilized by GSA to obtain lower prices is academic.

Accordingly, the protest is dismissed.

*for* *Wilton J. Foster*  
Paul G. Dembling  
General Counsel