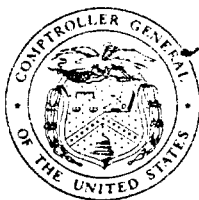


DECISION



12375 PL-I
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-196763

DATE: December 26, 1979

MATTER OF: *R1* J.E.T.S., Inc. *D. 67*

DIGEST:

Question concerning which standard industrial classification should be used for procurement will not be considered by GAO since SBA has conclusive jurisdiction to hear appeals from contracting officer's determination on such matter. Therefore, protest is dismissed.

J.E.T.S., Inc., protests against solicitation
2 No. N00406-80-R-1100, issued by the Naval Supply Center, Puget Sound, Bremerton, Washington. *D. 509*

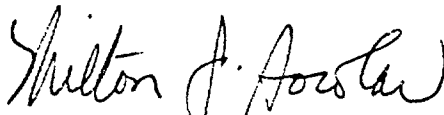
J.E.T.S. protests that the contracting officer's determination to apply a standard industrial classification (SIC) for "services not elsewhere classified" with a size limitation of \$2 million average annual receipts to the procurement for use in the event of tie bids was improper. J.E.T.S. contends that the appropriate SIC is that for food services with a size limitation of \$5.5 million average annual receipts. J.E.T.S. requests that we change the SIC used in this solicitation and has concurrently appealed the SIC determination to the Size Appeals Board of the Small Business Administration (SBA).

3 Under SBA regulations, the initial determination of the appropriate classification of a product or service being procured shall be made by the contracting officer with right of appeal to the SBA's Size Appeals Board. 13 C.F.R. § 121.3-8 and § 121.3-6 (1979). The SBA's determination is conclusive on service classification matters and, therefore, our Office declines to consider such matters. Kappa Systems, Inc., B-183036, May 20, 1975, 75-1 CPD 305. *739*

[Protest Concerning Contracting Officer's
Determination to Apply Standard Industrial
Classification] ~~00844~~ 111153

^pJ.E.T.S. also requests that we rule on whether the contracting officer will be required to set aside the procurement exclusively for small business participation in accordance with Defense Acquisition Regulation (DAR) § 1-706.5(a)(1) (1976 ed.) if the Size Appeals Board rules that the appropriate size standard for this procurement is \$5.5 million. We will not decide this issue since the Size Appeals Board has not yet decided what the correct SIC is, and because, under DAR § 1-706.5(a)(1), the contracting officer has the primary responsibility to determine whether there is a reasonable expectation that offers will be obtained from a sufficient number of responsible small business concerns so that award may be made at a reasonable price.

~~★~~The protest is dismissed.



Milton J. Socolar
General Counsel