

19849

Ayer

DECISION



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

FILE: B-204988 DATE: October 26, 1981

MATTER OF: Microtech Industries, Inc.

DIGEST:

Determination whether to set aside a procurement under section 8(a) of the Small Business Act and whether a concern is eligible for assistance under section 8(a) of the act is not reviewed by GAO unless the determination resulted from fraud or bad faith on the part of Government officials.

Microtech Industries, Inc. (Microtech), protests the decision to set aside Department of Energy solicitation No. DE-AC01-81AD11268 for the Small Business Administration's (SBA) 8(a) program and the eligibility of Systems Management American Corporation for an award under the 8(a) program.

The determination whether to set aside a procurement under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a), as amended by Public Law 95-507, October 24, 1978, 92 Stat. 1757, is a matter for the contracting agency and the SBA, and whether a concern is eligible for assistance under section 8(a) is a matter for determination by the SBA. Compton Associates, P.C., B-201711, January 30, 1981, 81-1 CPD 56. In view of the discretionary authorities, we do not review these agency determinations unless it appears that the determination resulted from fraud or bad faith on the part of Government officials. Compton Associates, P.C., supra. Neither fraud nor bad faith has been alleged.

Accordingly, the protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

~~019005~~ 116719