

DECISION



McConnell
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21343
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-207275

DATE: May 17, 1982

MATTER OF: American Indian Technical Services, Inc.

DIGEST:

1. Where a procurement is not set aside exclusively for Indian-owned firms under the Buy Indian Act, 25 U.S.C. § 47, and the solicitation does not indicate a preference for Indian-owned firms in the selection of the awardee, no basis exists to require award of the contract to an Indian-owned firm.
2. The Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450e(b), does not mandate either contract or subcontract awards to Indian-owned firms.

American Indian Technical Services, Inc. (AITS), an Indian-owned firm, protests the impending award of a contract to a non-Indian firm by the Department of Interior's Bureau of Indian Affairs (BIA) under solicitation No. RFP 82-7-1-21. The contract is for the performance of a forest history. AITS asserts that the Buy Indian Act, 25 U.S.C. § 47 (1976), and section 7(b) of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450e(b), require that award be made to an Indian-owned firm.

We summarily deny the protest.

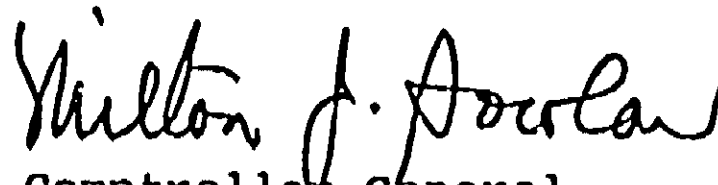
The Buy Indian Act, which reflects Congress' intent to further Indian participation in Federal programs conducted for Indians, gives the Secretary of the Interior the broad discretion to contract exclusively with Indian-owned firms to the extent practicable. See Vallie Enterprises, B-200339, May 29, 1981, 81-1 CPD 423. This contracting is effected by setting particular procurements aside for Indian firms. See 41 C.F.R. § 141-3.215-70 (1980), the regulation promulgated by the

Secretary of the Interior to implement the act. This procurement was not set aside under the Buy Indian Act, however, and AITS does not suggest that the solicitation in any way otherwise indicated a preference for Indian firms in the selection of the awardee.

Section 7(b) of the Indian Self-Determination and Education Assistance Act establishes a preference for Indian-owned firms only in the award of subcontracts under contracts with Indian organizations and under contracts for the benefit of Indians. 25 U.S.C. § 4503(b)(2). The statute does not mandate either contract or subcontract awards to Indian-owned firms. See WASSKA Technical Systems and Research Company, B-189573, August 10, 1979, 79-2 CPD 110.

Thus, there is no basis to require award of the contract in issue to AITS merely because it is Indian-owned.

The protest is denied.

for 
Comptroller General
of the United States