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**DECISION**



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

**FILE:** B-206413

**DATE:** June 22, 1982

**MATTER OF:** Worldwide Services, Inc.

**DIGEST:**

Protester will not be considered an interested party to protest provisions in a small business set-aside solicitation where the contracting agency offers objective evidence that the protester is a large business and therefore ineligible for contract award, and the protester does not refute or deny this.

Worldwide Services, Inc. protests certain provisions of solicitation No. F11602-81-B-0046 issued by the Department of the Air Force as a total small business set-aside for full food services at Chanute Air Force Base. Essentially, Worldwide contends that the meal estimates for certain months are too high, that the contract pricing scheme is unreasonable and will not result in an award at the lowest ultimate cost to the Government, and that the random inspection method provision is defective. We dismiss the protest.

The Air Force argues that Worldwide should not be considered an interested party to protest here since this is a small business set-aside and there are compelling reasons to believe that Worldwide is a large business under the applicable small business size standard, making it ineligible for award. In this regard, we have held that where a large business protester is ineligible for award under a proper small business set-aside, we will not consider its objections to alleged deficiencies in a solicitation since the protester is not an interested party which would be affected by the resolution of the issue. Atlas Guard Service, McCracken Security Agency, B-193453(3), May 8, 1979, 79-1 CPD 318. Worldwide has not challenged the propriety of the small business set-aside.

The Air Force points out that the small business size standard for food services contracts is \$5.5 million in average annual receipts for the preceding 3 fiscal years, 13 C.F.R. § 121.3-8(e)(7) (1981). Since total payments under contracts held by Worldwide at Chanute Air Force Base in 1979, 1980 and 1981 average well over \$5.5 million per year, the Air Force believes that Worldwide would not qualify as a small business for this contract. However, because Worldwide did not submit a bid, the Small Business Administration (SBA) has refused the Air Force's request for a size status determination on the firm.

The Air Force recognizes that this Office consistently defers to the SBA concerning questions of small business size status. See, e.g., GMP Scientific Corporation, B-201356, January 6, 1981, 81-1 CPD 8. Nevertheless, it argues that under the circumstances here, the protest should be dismissed absent any showing on Worldwide's part that it is a small business and thus eligible for award. We agree.

Generally, our policy is that a protester should be considered an interested party in the absence of objective evidence to the contrary. WASSKA Technical Systems and Research Company, B-189573, August 10, 1979, 79-2 CPD 110. Here, however, the Air Force has done more than merely allege that Worldwide is not eligible for award. It has substantiated its position by citing specific contracts under which the protester has received payments from the Air Force over the past three years which average well above the applicable small business size standard. Worldwide has neither refuted this evidence nor denied that it is a large business and ineligible for award. In fact, it has chosen to ignore the Air Force's position in this regard. Consequently, we can only conclude that it is not an interested party under our Bid Protest Procedures to have its protest considered on the merits.

The protest is dismissed.

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