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DECISION



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

FILE: B-212587

DATE: August 26, 1983

MATTER OF: Betakut USA, Inc.

DIGEST:

Protest that a small business/labor surplus area set-aside is unduly restrictive is dismissed where protester neither alleges nor attempts to show that the agency did not have a reasonable expectation of adequate competition to insure an award at a reasonable price.

Betakut USA, Inc. protests the award of any contract under invitation for bids (IFB) No. FEP-AR-F0250-A-8-4-83, a total small business/labor surplus area (LSA) set-aside issued by the General Services Administration for quantities of scissors and shears. Betakut contends that the small business/LSA set-aside is an undue restriction on competition and will significantly increase the cost to the Government. We dismiss the protest.

The Federal Procurement Regulations (FPR), implementing the Small Business Act, 15 U.S.C. § 631, 644(e) (Supp IV 1980), provide that procurements shall be set aside for small business and/or LSA concerns where there exists "a reasonable expectation that bids or proposals will be obtained from a sufficient number of responsible * * * concerns so that awards will be made at reasonable prices." See FPR § 1-1.706-5. The decision as to whether such expectations exist is primarily a business judgment within the discretion of contracting officials; consequently, our review of challenges to such set-aside decisions is limited to considering whether there has been an abuse of this broad discretion. See Ingersoll-Rand, B-207005, April 12, 1982, 82-1 CPD 338. Betakut has neither alleged nor attempted to show that GSA's expectation of sufficient competition and reasonable prices was without a rational basis. Thus, we find no basis for questioning inclusion of the set-aside provisions.

Betakut does argue that it should be able to compete here since it can furnish a better product at lower prices than will be received from a small business/LSA concern.

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The Government, however, may pay a premium price to small business firms on restricted procurements in order to implement the purposes of the Small Business Act. See Ling/L.A.B., a subsidiary of Mechanical Technology, Inc., B-207414, October 15, 1982, 82-2 CPD 341. The relative quality of Betakut's product also has no bearing on the propriety of GSA's set-aside decision. The only relevant consideration in this respect is whether GSA reasonably anticipated the receipt of bids from responsible firms, i.e., firms capable of performing in accordance with the specifications. Again, Betakut does not allege that GSA acted unreasonably in making this determination.

The protest is dismissed.

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