

DECISION

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

0
28784

FILE: B-215647

DATE: July 16, 1984

MATTER OF: Burco Systems Development, Inc.

DIGEST:

Protest concerning award of a contract under section 8(a) of the Small Business Act is a matter for the contracting agency and the Small Business Administration (SBA), and will not be reviewed by GAO in absence of showing of possible fraud or bad faith on the part of government officials.

Burco Systems Development, Inc., a small minority firm, protests the award of a contract by the General Services Administration (GSA), Fort Worth, Texas. GSA set aside the procurement for a minority contractor under the Small Business Administration's (SBA) 8(a) program. Burco requests that the procurement be delayed until the processing by the SBA of its application for certification as an eligible minority contractor has been completed so that it may compete under the solicitation. We dismiss the protest.

Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1982), authorizes the SBA to enter into contracts with any government agency having procurement powers. The contracting officer of the procuring agency is authorized in his discretion to let the contract to SBA. In light of that discretionary authority, we do not review questions concerning the award of contracts under section 8(a) unless there is a showing of possible fraud on the part of government officials or such willful disregard of the facts as to necessarily imply bad faith. See American Laundry, B-195070, July 23, 1979, 79-2 CPD ¶ 49. The fact that SBA has not yet completed the processing of Burco's application to be certified as an 8(a) contractor does not amount to a showing of possible fraud or bad faith. We are also

029423

B-215647

not aware of any rule that requires the suspension of a procurement action pending the completion of an application for certification as an 8(a) contractor.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel