

DECISION



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

FILE: B-216372

DATE: September 28, 1984

MATTER OF: AMS Manufacturing, Inc.

DIGEST:

GAO has no authority to order the withholding of an award pending a size status appeal to the Small Business Administration Office of Hearings and Appeals.

AMS Manufacturing, Inc. (AMS), protests the possible award of a contract to Zarn, Inc. (Zarn), under invitation for bids (IFB) No. DLA100-84-B-0905, issued as a total small business set-aside by the Defense Personnel Support Center (DPSC), Philadelphia, Pennsylvania, for the purchase of plastic water canteens.

AMS contends that Zarn, the apparent low bidder, does not qualify as a small business. The Small Business Administration (SBA) Atlanta Regional Office found Zarn to be small and AMS has appealed this decision to the SBA Office of Hearings and Appeals. AMS asks that we advise the contracting officer that no award should be made until the appeal is heard.

We do not consider whether a firm is a small business under the size standard applicable to the procurement because we are not empowered to make such determinations. Rather, under 15 U.S.C. § 637(b)(6) (1982), the SBA has conclusive authority to determine matters of small business size status for procurement purposes. See Horsburgh & Scott Company; Appleton Machine Company, B-213800; B-213800.2, Dec. 21, 1983, 84-1 C.P.D. ¶ 12.

Furthermore, the General Accounting Office has no authority to order the withholding of an award. Hoffman - Whitehead Co., B-208472, Aug. 30, 1982, 82-2 C.P.D. ¶ 186.

However, we have been informally advised by DPSC that as of September 21, 1984, no award has been made and DPSC currently has no plans to make award prior to receiving the Office of Hearings and Appeals decision.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel