

Hannover
AL-I

DECISION



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

FILE: B-221362

DATE: January 9, 1986

MATTER OF: Multinational Business Services, Inc.

DIGEST:

GAO will not consider protest against a small business set-aside where protester does not allege legal or factual grounds for challenging the set-aside decision.

Multinational Business Services, Inc. (Multinational), representing the Hannover and Stadthagen Sicherheitstechnik Company (Hannover), protests the Department of State's issuance of solicitation No. 620004 for heavy armored vehicles as a small business set-aside. Hannover is ineligible to compete under the set-aside because it is a foreign concern.

We dismiss the protest.

Multinational argues that since armored vehicles are "essential to the safety and security of the United States government," the State Department should not limit competition to those firms which qualify as small business concerns. Multinational also contends that although there are six United States firms which qualify as small business concerns for this procurement, none of these firms are minority or disadvantaged concerns which the protester believes are the types of firms set-asides are intended to benefit. Multinational further believes that the effect of the set-aside is to exclude foreign firms from competing for this procurement.

The Federal Acquisition Regulation, 48 C.F.R. § 19-502.2 (1984), directs the setting aside of procurements if the contracting officer determines that there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns and award will

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be made at reasonable prices. Multinational does not allege that there are fewer than two small business concerns which may reasonably be expected to bid on this solicitation or that a reasonable price cannot be obtained. In fact, Multinational concedes that there are more than two small business concerns. Therefore, Multinational's protest does not allege any legal or factual grounds which would provide a basis for sustaining the protest. See Zytron Corporation, B-219200, July 2, 1985, 85-2 C.P.D. ¶ 21; Ingersoll-Rand Co., B-218084, Feb. 8, 1985, 85-1 C.P.D. ¶ 171.

Multinational also protests (on behalf of Hannover) the requirement under the solicitation for the submission of material samples. Under our Bid Protest Regulations, 4 C.F.R. § 21.0(a) (1985), Hannover is not an interested party to protest this issue since, even if it were resolved in Hannover's favor, the firm is ineligible for award of this contract. See Solid Waste Services, Inc., B-218445, B-218445.2, June 20, 1985, 85-1 C.P.D. ¶ 703. Therefore, we will not consider this issue on the merits.

The protest is dismissed.



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