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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: WillCan Enterprises, Inc.

File: B-224669

Date: September 24, 1986

DIGEST

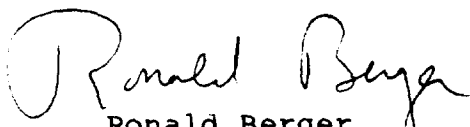
A protest against any contract award until protester's appeal to the Small Business Administration (SBA) from a SBA size determination has been decided is dismissed since the contracting officer is not required to delay the award when such an appeal has been filed.

DECISION

WillCan Enterprises, Inc., protests award of any contract under invitation for bids (IFB) No. DAHC44-86-B-0019, issued by the Department of the Army, until the Small Business Administration (SBA) renders a decision on WillCan's appeal from an "unjust" SBA size determination that precludes award to it. WillCan contends that it is the low responsible bidder and that the Army could save a substantial sum if it withheld award until receipt of the SBA's decision.

Under the Federal Acquisition Regulation (FAR), 48 C.F.R. § 19.302(h)(1) (1985), when a size status protest is filed with an SBA regional office, a contracting officer must withhold award for 10 business days or until the SBA has made its decision, whichever occurs first. However, there is no requirement that a contracting officer withhold a contract award until the SBA renders a decision on an appeal from a SBA regional office size determination. Jensen Corp., B-220770 et al., Oct. 21, 1985, 85-2 CPD ¶ 434. Moreover, a SBA ruling on the appeal does not affect the award of a contract if it is received by the contracting officer after award. FAR, § 19.302(i) (FAC 84-12, Jan. 20, 1986.)

The protest is dismissed.


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