



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Econo Lodge
File: B-230308
Date: May 18, 1988

DIGEST

Protest that contracting officer awarded a contract under a small business set-aside without first giving notice to the unsuccessful offerors for purposes of protesting the proposed awardee's size status before the award is denied, since the Small Business Administration has determined, in response to the protester's post-award size-status protest, that the awardee is a small business concern for this procurement and therefore the protester was not prejudiced by the notice delay.

DECISION

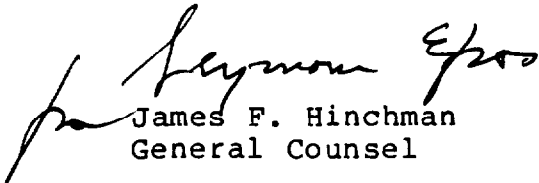
Econo Lodge protests the award of a contract to Gallico Corporation under solicitation No. DAKF10-88-R-0008, a small business set-aside issued by the Department of the Army for lodging and meals for Armed Forces Applicants of the Military Entrance Processing Stations in Tampa, Florida. The basis for protest is that the Army awarded the contract without first giving notice to the unsuccessful offerors, as required by Federal Acquisition Regulation (FAR) § 15.1001(b) (FAC 84-13), so that a preaward protest of Gallico's size status could not be filed with the Small Business Administration. The Army, in waiting until after award to advise the losing competitors of the selection decision, relied on the exception in FAR § 15.1001(b) to the requirement for preaward notice for the case where the urgency of the requirement necessitates award without delay.

The record shows that Econo Lodge did file a size-status protest after award, in response to which the SBA recently has determined that Gallico in fact is a small business under the size standard of this solicitation. Accordingly, Econo Lodge suffered no competitive disadvantage or prejudice in the procurement by the Army's decision to award

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the contract without prior notice to the unsuccessful competitors. See A.S.K. Associates, B-228367, Nov. 30, 1987, 87-2 CPD ¶ 539.

The protest therefore is denied.


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General Counsel