



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Sterling Services Incorporated

File: B-232756.2

Date: October 7, 1988

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### DIGEST

Contracting agency properly may make award after the Small Business Administration determines, in response to a size status protest, that the awardee is a small business, even though an appeal of that determination is pending.

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### DECISION

Sterling Services Incorporated protests the award of a contract to LBM, Inc., under Department of the Air Force invitation for bids (IFB) No. DABT39-88-B-0079, a total small business set-aside. Sterling argues that the Air Force improperly made award while Sterling's appeal of a Small Business Administration (SBA) determination that LBM is a small business was pending.

Under Federal Acquisition Regulation (FAR) § 19.302(h)(1), when a size status protest has been filed, a contracting officer may not make an award until the SBA Regional Administrator has issued a determination or until 10 working days after SBA's receipt of the protest, whichever occurs first. Although the regulations provide for an appeal of the initial SBA size determination by any concern that has been adversely affected, there is no requirement that the contracting officer withhold award during the appeal period. FAR § 19.302(i); Suddath Moving Systems, Inc., B-229992, Apr. 1, 1988, 88-1 CPD ¶ 332. Therefore, there was nothing improper in the Air Force's making award to LBM while Sterling's appeal was pending.

The protest is dismissed.

*Ronald Berger*

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