



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Gonzales Construction Company, Inc.

File: B-258673

Date: October 19, 1994

DECISION

Gonzales Construction Company, Inc. protests the Department of the Army's failure to set aside solicitation No. DAHA42-94-B-0008 for small disadvantaged businesses under the section 8(a) program.

We dismiss the protest because our Office generally has no jurisdiction to review the Small Business Administration's (SBA) stewardship of the small disadvantaged business contracting program.

Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1988 and Supp. V 1993), authorizes the SBA to enter into contracts with government agencies and to arrange for the performance of such contracts by letting subcontracts to socially and economically disadvantaged small business concerns. Because of the broad discretion afforded the SBA and the contracting agencies under the applicable statute and regulations, our review of actions under the section 8(a) program generally is limited to determining whether government officials have violated regulations or engaged in fraud or bad faith. See 4 C.F.R. § 21.3(m)(4); Lecher Constr. Co.--Request for Recon., B-237964.2, Jan. 29, 1990, 90-1 CPD ¶ 127. To show bad faith, the protester must present undeniable proof that the procuring agency had a malicious and specific intent to injure the protester. Ernie Green Indus., Inc., B-224347, Aug. 11, 1986, 86-2 CPD ¶ 178. The protester has not shown the reasonable likelihood of either a violation of regulations or fraud or bad faith by government officials.

The protest is dismissed.

A handwritten signature in cursive script, reading "Paul Lieberman".

Paul Lieberman
Acting Associate General Counsel