



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Myers Investigative and Security Services

File: B-261375

Date: May 19, 1995

DECISION

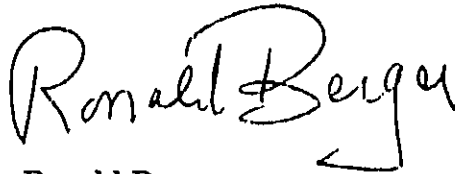
Myers Investigative and Security Services protests the U.S. Information Agency's (USIA) decision not to award Myers a contract under solicitation No. IA0303-14-023 issued under the section 8(a) program. Myers contends that the Small Business Administration (SBA) acted improperly in first selecting this procurement for the section 8(a) program and then reversing that decision in order to set aside the procurement for small businesses upon learning that the current contract is being performed by a small business pursuant to a small purchase, small business set-aside award.

At issue here is whether the SBA violated any procurement laws or regulations. In this regard, 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.-Recon., B-237964.2, Jan. 29, 1990, 90-1 CPD ¶ 127.

The SBA's regulations bar it from accepting for 8(a) award proposed procurements not previously in the 8(a) program when the same services or supplies were obtained previously through a small business set-aside or if acceptance would adversely impact on other small business programs or individual small businesses. See 13 C.F.R. § 124.309 (1995). Therefore, when it came to SBA's attention that the services were being provided by a small business through a small business set-aside, the SBA decided not to accept the procurement for a section 8(a) award.

This determination obviously is consistent with the applicable regulations and therefore provides no basis for protest.¹

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in black ink and is positioned above the printed name and title.

Ronald Berger
Associate General Counsel

¹While Myers challenges a sole source award to the incumbent [USIA advises that it extended the incumbent contract for 2 weeks], USIA advises that it is preparing a competitive procurement under which Myers will be eligible to compete.