

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

C. Haines
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FILE: B-190799

DATE: December 22, 1977

MATTER OF: Steamatic by M & S Tolcser

DIGEST:

Whether procurement should be set-aside under section 8(a) of Small Business Act and whether concern is eligible for and is meeting objectives of 8(a) program are not considered by GAO under bid protest procedure.

Steamatic by M & S Tolcser (Steamatic) protests the award of a contract for janitorial services for the U.S. Federal Building, Concord, New Hampshire, under section 8(a) of the Small Business Act, 15 U.S.C. 637(a)(1) (1970).

Steamatic contends that it was discriminatorily denied 8(a) eligibility status by the Small Business Administration (SBA). It further contends that award under the 8(a) program should not be made to the firm which has received the award for the past 2 years because either (1) the firm should have become a self-sustaining small business or (2) the firm is not meeting the objectives of the 8(a) program and therefore should be terminated from that program. Finally, Steamatic states that award should be made under competitive bidding procedures rather than pursuant to the 8(a) program.

These are not matters within our bid protest jurisdiction. The question of whether a firm is eligible for the 8(a) program is a matter for determination by SBA and not this Office. Tidewater Protective Services, Inc., B-189429, August 19, 1977, 77-2 CPD 131. Similarly, while the purpose of the 8(a) program is to bring socially and economically disadvantaged small business concerns to a self-sustaining competitive level within a reasonable period

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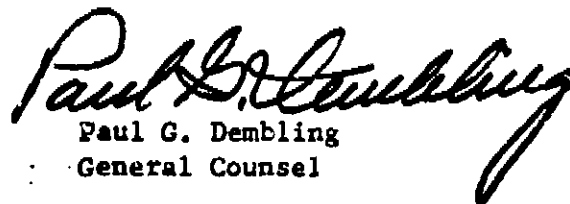
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of time, whether a particular contractor awarded a section 8(a) contract has been in the 8(a) program too long and whether the contractor is meeting the objectives of the program are matters for determination by SBA and not GAO. Kings Point Manufacturing Company, Inc., 54 Comp. Gen. 913 (1975), 75-1 CPD 264; Hoover Reporting Company, Inc., B-185261, July 30, 1976, 76-2 CPD 102.

Section 8(a) empowers the SBA to enter into contracts with any Government agency having procurement powers, and the contracting officer of such agency is authorized "in his discretion" to let the contract to SBA "upon such terms and conditions" as may be agreed upon between SBA and the procuring agency. It is clear, therefore, that the determination to initiate a set-aside under section 8(a) and to dispense with competition is within the sound discretion of SBA and the procuring agency. Hoover Reporting Company, Inc., *supra*; Jets Services, Inc., B-186066, May 4, 1976, 76-1 CPD 300.

The protest is dismissed.


Paul G. Dembling
General Counsel