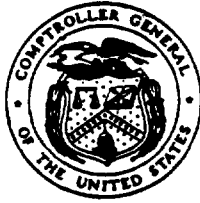


**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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**FILE:** B-209992.2, B-209992.3**DATE:** November 21, 1983**MATTER OF:** Gallegos Research Corporation--  
Reconsideration**DIGEST:**

Recommendation that options in 8(a) contract awarded to firm whose participation in 8(a) program would expire during first year of performance not be exercised unless firm continued in 8(a) program is clarified. Options may be exercised subject to requirements of regulations for justification of exercise of options.

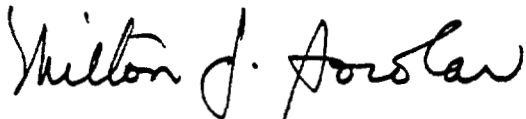
The Small Business Administration (SBA) and the OAO Corporation (OAO) have requested reconsideration of a recommendation we made in our decision Gallegos Research Corporation, B-209992, April 11, 1983, 83-1 CPD 376. In that decision, we denied a protest against the award of a contract to OAO under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1982). OAO's participation in the 8(a) program was scheduled to expire during the first year of performance and the contract provided for three option years. We found that the exercise of the options would effectively permit OAO to continue an 8(a) contract for 3 years beyond its eligibility for participation in the 8(a) program and recommended that the options not be exercised unless OAO continued to be an eligible 8(a) firm.

The SBA contends that implementation of our recommendation would disrupt SBA's efforts to provide an orderly transition for graduating 8(a) firms into participation in competitive procurements and the commercial marketplace. Further, SBA argues that to limit the exercise of options on 8(a) contracts would discourage procuring agencies from reserving their requirements for the 8(a) program when certain contract work is required over several years. Moreover, Air Force states that it would exercise the options only pursuant to the DAR § 1-1500 criteria.

Our recommendation has been subject to a broader interpretation than intended. It was our intent only to preclude the continuation of an 8(a) contract--as an 8(a)

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contract--with a party no longer eligible to participate in the 8(a) program. We did not intend to preclude the exercise of options in accordance with applicable regulations, see subpart 1-1.1507 of the Federal Procurement Regulations, 41 C.F.R. §§ 1-1.1507, et seq. (1983), and § 1-1505 of the Defense Acquisition Regulation (DAR), 32 C.F.R. § 1-1505 (1982), which require generally that the exercise of an option be determined to be the most advantageous method of fulfilling the government's need. Our prior decision is accordingly clarified.

*for*   
Comptroller General  
of the United States