

DECISION

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

FILE: B-222229

DATE: April 29, 1986

MATTER OF: Consolidated Micrographics, Inc.

DIGEST:

General Accounting Office will not question contracting officer's decision to set a procurement aside for small business concerns where the contracting officer reasonably determined that adequate small business competition and reasonable prices could be expected.

Consolidated Micrographics, Inc. (CMI) protests the total small business set-aside by the Department of Commerce of invitation for bids (IFB) No. 50-SAAA-6-10230 to service three microfiche duplicators located in Springfield, Virginia. CMI complains that the solicitation's limit of \$3,500,000 on a firm's annual earnings in order for it to qualify as a small business concern is unduly restrictive, so that the procurement will not generate adequate competition.

We deny the protest.

Commerce reports that, prior to issuing the solicitation, it had been assured by CMI and another firm that each was qualified to provide the services as a small business concern. Commerce further states that it subsequently found that two other firms were qualified. Commerce asserts it therefore reasonably expected to receive bids from at least two qualified small businesses, so that a set-aside was appropriate. In this regard, Federal Acquisition Regulation (FAR), 48 C.F.R. § 19.502-2 (1984), provides that in order to make a small business set-aside, the contracting officer must determine there is a reasonable expectation that offers will be received from at least two responsible small business concerns and that award will be made at a reasonable price.

CMI does not deny that, before the solicitation was issued, it assured Commerce of its ability to qualify as a small business. Nonetheless, CMI now complains that the

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criterion relating to annual earnings precludes it from competing as a small business. CMI declined to respond to Commerce's report, asking instead that we consider the protest on the basis of the record before us.

Because determinations under section 19.502-2 of the FAR as to whether adequate small business competition and reasonable prices may be expected are basically business judgments within the contracting officer's broad discretion, this Office will uphold the contracting officer's set-aside determination absent a clear showing of abuse of discretion. Advance Machine Co., B-217399, Sept. 20, 1985, 85-2 C.P.D. ¶ 311.

In light of CMI's failure to present any rebuttal evidence concerning assurances given to Commerce prior to issuance of the IFB, we will accept the agency's statements at face value. Since CMI also does not contest the fact that there are at least three other small businesses qualified to compete in the procurement, or suggest that reasonable prices will not be obtained, we have no basis to question the contracting officer's decision to set the procurement aside.

The protest is denied.

for Seymour Elias
Harry R. Van Cleve
General Counsel