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DECISION



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

FILE: B-200329

DATE: October 15, 1980

MATTER OF: Arrow Window Washing and Building
Maintenance Corporation

DIGEST:

[Protests against award of small business set-aside contracts] will not be considered because material issues involved are before court of competent jurisdiction, and court has not expressed interest in GAO decision.

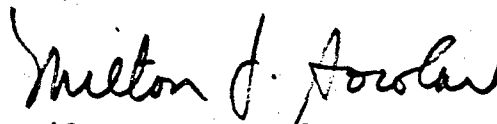
Arrow Window Washing and Building Maintenance Corporation (Arrow) protests any award under solicitation Nos. DAHC-30-80-R-0039 and DAHC-30-80-R-0050 issued by the Military District of Washington for custodial services at Fort Myer. Both solicitations were issued under the Small Business Administration's (SBA) "8(a)" program, which authorizes SBA to enter into a contract with any Government procuring agency and to arrange for the performance of the contract by letting subcontracts to socially and economically disadvantaged small business concerns. Arrow states that it is an eligible "8(a)" firm.

Arrow explains that the custodial work has been performed for the past 10 years by another "8(a)" firm, Unified Services, Inc. (USI), whose current contract expires on September 30, 1980. Arrow states that the procuring activity requested that SBA obtain some firm other than USI for the next subcontract award and that Arrow be considered. Arrow also states that SBA authorized the procuring agency to negotiate with Arrow but on September 5, 1980, Arrow learned that SBA directed the procuring agency to terminate negotiations with Arrow and negotiated with USI. Thus, Arrow objects to the SBA's apparent determination that USI should get both awards.

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Our Office has recently learned that, following the filing of the protest here, Arrow filed a complaint for permanent injunction, declaratory judgment, and other relief in the United States District Court for the District of Columbia (Arrow Window Washing & Building Maintenance Corporation v. Clifford L. Alexander, Jr., et al., Civil Action No. 80-2413). The court has not expressed interest in receiving our decision on this matter, which is still pending before the court.

It is the policy of our Office not to decide protests where the material issues are pending before a court of competent jurisdiction unless the court requests, expects, or otherwise expresses interest in our decision. 4 C.F.R. § 20.10 (1980); Fort Riley Cable TV Services, Inc., B-197035, March 14, 1980, 80-1 CPD 200. Since the material issues in this matter are pending before a court of competent jurisdiction and because the court has not expressed an interest in our views, the protest is dismissed. Dyneteria, Inc.; Jets, Inc., B-194279, B-194284, August 1, 1979, 79-2 CPD 70.



Milton J. Socolar
General Counsel