

**DOCUMENT RESUME**

08113 - [C3348433]

[Subcontractors to Large Businesses on Small Business Set-Aside Construction Contracts]. B-193164. November 27, 1978. 1 pp.

Decision re: Horner Elevator Co.; by Robert F. Keller, Deputy Comptroller General.

Contact: Office of the General Counsel: Procurement Law II.  
Organization Concerned: Department of the Army: Fort George G.  
Meade, MD; Otis Elevator Co.  
Authority: 41 C.F.R. 124.

A company protested any award of a subcontract to a large business concern by any small business prime contractor selected under a small business set-aside procurement. No legal support exists for a protest based solely on anticipation that such may occur. (Author/SC)

**DECISION**



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

*8423*

FILE: B-193164

DATE: November 27, 1978

MATTER OF: Horner Elevator Company, Inc.

**DIGEST:**

No legal support exists for protest based solely on anticipation that Prime contractor for total small business set-aside construction contract may subcontract portion of work to large business.

Horner Elevator Company, Inc. (Horner) protests any award of a subcontract to the Otis Elevator Company by any small business prime contractor selected under invitation for bids (IFB) No. DAKF27-78-B-0206 issued by Fort George G. Meade, Maryland. Horner contends that Otis, a potential subcontractor, is a large business concern and has submitted bid prices below those submitted by Horner to potential prime contractors.

We are aware of no legal support for a protest to this Office based solely on anticipation that a prime contractor for a total small business set-aside construction contract may intend to subcontract a portion of the work to a large business. The Small Business Administration (SBA) requires small business construction firms bidding on total small business set-asides to perform a significant portion of the contract with its own facilities and personnel on its own payroll. 13 C.F.R. 124.8-16(f) (1978). However, the protester has presented no information to indicate that the intended prime contractor does not intend to comply with this requirement.

Accordingly, this protest is denied.

Deputy

*R. M. K...*  
Comptroller General  
of the United States