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Phillips  
P.L.I.

**DECISION**



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

FILE: B-191236

DATE: March 29, 1978

MATTER OF: Dr. Robert S. Ray Association

**DIGEST:**

Where firm protests exercise by Air Force of first-year option of contract on basis that contractor was not small business, and Air Force treats protest as protest of small business status received after award, forwarding protest to SBA for consideration in future actions in accordance with ASPR § 1-703 (b)(1)c, GAO will not consider protest since matter objected to relates to administration of contract which is responsibility of contracting agency and not for resolution under our bid protest procedures. Moreover, authority to determine size status of business concern is vested in SBA.

By letter of March 3, 1978, counsel for Dr. Robert S. Ray Association (hereafter Ray) protests for the second time the Air Force's decision to exercise its first-year option under solicitation F41699-77-09011 (contract F41699-77-90046).

The basis for Ray's first protest, lodged by letter of February 3, 1978, was that the partnership of Joseph Carabin, M.D., and Michael D. Howard, M.D., did not qualify as a "small business" since the partnership was affiliated with two concerns, M&S X-Ray Associates and the University of Texas, neither of which was within the \$2.0 million size standard. Since the first protest questioned the partnership's size status, we, in our decision B-191236 of February 27, 1978, declined to consider the protest on the basis that the authority to determine the size status of a business is vested in the Small Business Administration (SBA).

However, we subsequently learned (we did not request an administrative report in connection with Ray's prior protest with GAO since it appeared to be evident that we had no jurisdiction) that the above partnership was the successful bidder under the above solicitation and on March 17, 1977, had been awarded contract F41699 77-90046. This contract was for a 1-year term with two 1-year options. We also learned that prior to award, Ray lodged a small business status protest against the partnership, giving the same basis for that protest as it had given to us in connection with its prior protest before our Office. In connection with the size status protest the SBA District Director determined that M&S X-Ray Associates, with whom both partners were affiliated, was within the \$2.5 million size standard contained in the solicitation and that Dr. Howard's association with the University of Texas was that of a faculty member, which is an employer-employee relationship. The SBA District Director stated that as a member of the faculty Dr. Howard had no control over the University of Texas, nor did the university control the partnership of Drs. Howard and Carabin.

Pursuant to appropriate findings, the Air Force, on January 19, 1978, exercised the first 1-year option. It was this action which triggered Ray's February 3, 1978, protest with GAO. We are advised that since Ray's protest was considered to be a protest of small business status received after award, it was forwarded to SBA for consideration in future actions in accordance with section 1-703 (b)(1)c of the Armed Services Procurement Regulation (.SPR) (1976 ed.).

Ray urges that the Air Force not be allowed to exercise the first-year option and that SBA be allowed to make a size determination. However, we are of the view that the matter objected to relates to the administration of contract F41699-77-90046. Contract administration is a function and responsibility of the contracting agency and questions involving such matters are not for resolution under our Bid Protest Procedures. H. G. Peters & Company, B-183115, September 27, 1976, 76-2 CPD 284.

B-191236

Accordingly, we must decline to consider Ray's protest.

  
Paul G. Dembling  
General Counsel