

DOCUMENT RESUME

03859 - [B2733952]

[Protest Alleging that Procurement Should Have Been Set Aside for Small Business and/or Labor Surplus Area Concerns].
B-190016. September 26, 1977. 2 pp.

Decision re: Par-Metal Products, Inc.; by Paul G. Dembling,
General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law II.
Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).
Organization Concerned: Department of the Army: Army Electronics
Material Readiness Activity, Warrenton, VA.
Authority: B-185267 (1976). B-173857 (1972). 45 Comp. Gen. 228.
45 Comp. Gen. 231.

A company alleged that the Army's refusal to set aside the procurement for small business or labor surplus area concerns was based on a lack of sufficient information. The decision of whether a procurement should be set aside is within the authority and discretion of the agency and not for consideration by GAO. (SW)

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DECISION



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

FILE: B-190016

DATE: September 25, 1977

MATTER OF: Par-Metal Products, Inc.

DIGEST:

Protest alleging that procurement should have been set aside for small business and/or labor surplus area concerns is dismissed since decision as to whether procurement should be set aside is within authority and discretion of contracting agency and GAO is "reluctant" to substitute its judgment with regard to such matters.

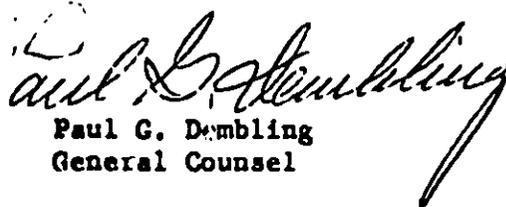
Par-Metal Products, Inc. (Par-Metal) protests the failure of the Department of the Army to set aside for small business and/or labor surplus area concerns solicitation No. DAA54-77-B-0092, issued by the United States Army Electronics Materiel Readiness Activity, Warrenton, Virginia.

Par-Metal advises that the Army believes this procurement is unsuitable for small business or labor surplus area concerns because adequate specifications do not exist for a competitive procurement except on a brand name or equal basis. It is Par-Metal's belief that there are at least 20 companies capable of providing the units and the Army's refusal to set aside the procurement for small business or labor surplus area concerns is based on a lack of sufficient information.

We have held that while it is the policy of the Government to award a portion of purchases of supplies and services to small business and labor surplus area concerns, there is nothing in the Small Business Act or applicable Armed Services Procurement Regulation provisions which mandates that there be set aside for small business or labor surplus area concerns any particular procurement. The decision whether a procurement should be set aside is within the authority and discretion of the contracting agency. The Small Business Administration; Najol, Inc., February 11, 1977, 77-1 CPD 104; Dumont Oscilloscope Laboratories, Inc., B-185267, April 16, 1976, 76-1 CPD 259. Even where we may not agree with a set-aside determination, we are "reluctant to substitute our judgment for that of the contracting agency in the absence of a clear showing of abuse" of that discretion. 45 Comp. Gen. 228, 231 (1965); B-173857, January 13, 1972.

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Accordingly, we believe no useful purpose would be served by our consideration of this matter and the protest is therefore dismissed.


Paul G. Dembling
General Counsel