



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

D-178295 (1)

40076

October 18, 1973

The Hatch Institution
1101 8 Street, NW.
Washington, D. C. 20008

Attention: Timothy L. Jenkins
Chairman

Gentlemen:

This is in reply to your telefax message of April 30, 1973, and subsequent correspondence, protesting contract awards made by the Small Business Administration (SBA) pursuant to solicitation No. SBA-406-LA-73-1.

The solicitation, for management and technical assistance to be rendered to individuals for enterprises pursuant to section 406 of the Economic Opportunity Act of 1964 (42 U.S.C. 2906b), provided for the award of 24 contracts, each covering a specific geographical area. All proposals received were submitted for technical evaluation, following which selection of the successful offerors was made by SBA's 406 Policy Committee. Although you submitted proposals for six areas, you did not receive any of the awards.

You assert that "a thorough assessment of bidder capability was apparently lacking, serious procedural irregularities seem to have occurred, there was an apparent disregard for the statutory mandate of the 406 program and there is strong evidence to support a racial and ethnic bias in the results of the evaluation." On the basis of these allegations, you protest all of the awards made by SBA under the instant solicitation.

However, our review does not disclose any irregularities or other deficiencies such as would invalidate any of the awards. The record shows that all proposals were independently evaluated by each member of a 3-man panel in accordance with the evaluation criteria set forth in the solicitation, which provided for evaluation on the basis of the qualifications of the staff proposed to be used and the previous experience and effectiveness of the offeror in providing the type of services being procured. The record further shows that for areas 5, 6, 9 and 11, awards were made to offerors whose proposals were rated higher and priced lower than your proposal. For area 2, your proposal was

720037

091551

B-178295

rated second highest, but SBA reports that both it and the highest rated proposal were rejected because they did not indicate an office in the area to be served, as required by the solicitation. Your proposal and another proposal for area 7 received the identical high rating (although you proposed a higher price), but SBA reports that these were also rejected because they failed to indicate an office in the area. In our view, the awards for these areas were made in accordance with the solicitation (which stated that awards would be made "to the firms which, in the judgment of the Small Business Administration, are best qualified--price and all other factors considered").

With respect to your claim of racial bias in the evaluation of proposals, you state that in 1970 you received a 406 contract and performed all tasks satisfactorily, but that you have not received a contract for any subsequent year. You have also stated that most of the contracts under the 406 program had originally been awarded to minority firms, but that very few minority firms have been receiving such awards in recent years. In response to your allegations, SBA's Office of Equal Opportunity and Compliance conducted an investigation and concluded that there were "no indications of racial discrimination" in the evaluation of proposals and awarding of contracts under the instant solicitation. It did report that there has been a "substantial reduction" in the number of minority contracts since the program began in 1969, but explained that this "appeared to be due to a policy change" from preferring minority firms "by reason of their rapport with the target communities" to purchasing "competent services with due regard for the SBA Policy to assist minorities." The report states that the policy change resulted from "'poor performance' on the part of the initial 406 contractors." In view of this explanation and the absence of any other evidence in the record bearing on this allegation, we are unable to conclude that these procurements were tainted by racial discrimination on the part of SBA personnel.

Accordingly, your protest is denied.

Sincerely yours,

R.F.KELLER

Deputy

Comptroller General
of the United States