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United States Government Accountability Office
Washington, DC 20548

Facsimile Transmission Sheet

Date: November 15, 2007

Number of pages, including this cover sheet: 22

Re: B-310669; B-310730; Protest of
FitNet Purchasing Alliance

From: Paula A. Williams, Senior Attorney

Name	Firm/Agency	Phone	Fax
Raul Espinosa	FitNet Purchasing Alliance	904/599-9920	866/381-0908
Brian Berry, Esq.	DoD Education Activity	703/588-3062	703/588-3707
John Klein, Esq.	Small Business Administration	202/619-1772	202/481-2676

Message to the Parties:

This Office has received and reviewed the agency's request for dismissal and the protester's response thereto. Based on the record before us, the agency's dismissal request is denied and the agency's report on the protest is due by COB, Friday, November 23, 2007.

Our Office is requesting the views of the SBA because the protester essentially challenges the legal basis for the exemption from FAR Subpart 19.5, "Set-Asides for Small Business" for acquisitions outside the United States or its outlying areas, as contrary to the Small Business Act. This exemption is implemented at FAR § 19.000(b) and it appears that the challenged solicitations HE1260-07-T-2007 and HE1260-07-T-2008 are such acquisitions.

A copy of the protests, the agency's dismissal request, and the protester's objections to the dismissal request, accompanies this cover page for the SBA. Should the parties have any questions, I may be reached by telephone on 202/512-4788.