

Maeder



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Laro Maintenance Corporation

File: B-270648

Date: January 24, 1996

DECISION

Laro Maintenance Corporation protests the proposed award of a contract to LB & B Associates, Inc. under request for proposals (RFP) No. 08-3K065-95, issued by the Department of Agriculture, Agricultural Research Service (ARS), for operations and maintenance support services at the ARS Plum Island Animal Disease Center, Greenport, New York. Laro challenges the agency's evaluation of LB & B's proposal and the source selection authority's (SSA) best value determination, and also argues that there is a conflict of interest involving the principals of LB & B and the director of Plum Island.

We dismiss the protest.

The RFP, issued as a small business set-aside on May 18, 1995, contemplated the award of a cost-plus-award-fee contract to the offeror whose proposal offered the best value to the government. The solicitation also stated that if proposals within the competitive range were considered essentially equal in terms of technical competence, the government reserved the right to award to the offeror with the lowest realistic cost.

Eight firms, including LB & B and Laro Government Services¹, submitted initial proposals. Four proposals, including LB & B's and Laro's, were included in the competitive range. Following discussions, each competitive range offeror submitted a best and final offer (BAFO). Each offeror's BAFO was found technically

¹The agency argues that the protester, Laro Maintenance, is not an interested party to protest the proposed award since it did not submit a proposal and thus has no direct economic interest in the procurement. The agency argues that Laro Maintenance and Laro Government Services are separate corporate entities which, despite having the same sole shareholder, have no parent/subsidiary relationship. We need not address this issue since, as discussed below, we find that the protester is not an interested party on other grounds.

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acceptable and received a score for technical merit and a ranking based on technical merit and evaluated cost.

LB & B's proposal, the highest technically rated (91 points out of 100 possible points) with an evaluated cost of \$26,985,940 was ranked first. Laro's proposal was ranked third with a technical score of 71 and an evaluated cost of \$27,601,399. Another offeror was ranked second with a technical score of 71, identical to Laro's technical score, and an evaluated cost of \$26,554,172. The SSA determined that LB & B's proposal offered the best value to the government and, on November 20, notified the offerors that LB & B was the apparent successful offeror. This protest followed.

Laro does not challenge the evaluation of its own proposal.² Rather, its protest is primarily directed at the evaluation of LB & B's proposal, arguing that the industrial hygienist manager proposed by LB & B does not have the qualifications required by the solicitation; that the agency's best value determination cannot be correct because LB & B does not have the experience in a bio-containment facility as required by the RFP; that the agency's cost realism analysis of LB & B's proposal was unreasonable; and finally, that a conflict of interest exists with respect to certain personnel of LB & B and Plum Island.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988), only an "interested party" may protest a federal procurement. That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award the contract. Bid Protest Regulations, section 21.0(a), 60 Fed. Reg. 40,737, 40,739 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.0(a)). Determining whether a party is sufficiently interested involves consideration of a party's status in relation to a procurement. Where there are intermediate parties that have a greater interest than the protester, we generally consider the protester to be too remote to establish interest within the meaning of our Bid Protest Regulations. Panhandle Venture V; Sterling Inv. Properties, Inc.-Recon., B-252982.3, B-252982.4, Sept. 1, 1993, 93-2 CPD ¶ 142. A protester is not an interested party if it would not be in line for award if its protest were sustained. Abre Enters., Inc., B-251569.2, Mar. 16, 1993, 93-1 CPD ¶ 239.

²While Laro asserts in its response to the agency's dismissal request that it has, in fact, challenged its own evaluation, Laro makes no reference to anything in its protest submission that supports this position. Our review of the protest letter submitted by Laro discloses no specific challenge to the evaluation of its own proposal.

Here, Laro challenges only the agency's evaluation of LB & B's proposal, and does not challenge the evaluation of the higher-ranked intervening offeror. Even if Laro's protest were sustained, it is clear it would not be next in line for award as its proposal was ranked third. Accordingly, Laro lacks the requisite direct economic interest to be considered an interested party to protest the award to LB & B.

Government Technology Servs., Inc.; Federal Computer Corp.; Egghead Software, B-258082.2 et al., Sept. 2, 1994, 94-2 CPD ¶ 93; The Law Co., B-248631, Sept. 10, 1992, 92-2 CPD ¶ 165.

Accordingly, the protest is dismissed.

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