

Roberts

DECISION



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

17698

FILE: B-199080

DATE: April 9, 1981

MATTER OF: Falcon Electric Company, Inc.

DIGEST:

[Protest of] Falcon Department of Interior Contract

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Where firm protesting award under IFB did not submit bid and has not alleged any requisite non-bidder interest in procurement, firm lacks standing under GAO Bid Protest Procedures to pursue bid protest.

Falcon Electric Company, Inc., protests the award of a contract to Avery Structures, Inc., under invitation for bids (IFB) No. DC7419 issued by the Bureau of Reclamation, Department of the Interior. Falcon alleges that Avery Structures' bid was excessive and questions the awardee's ability to perform the contract work. For the following reasons, we will not consider this protest on the merits.

The Department of the Interior reports that Falcon did not submit a bid on the IFB. This raises the threshold question of whether Falcon has standing to protest here. In this regard, our Bid Protest Procedures state that a party must be "interested" in order to have its protest considered by our Office. 4 C.F.R. § 20.2(a) (1980). Determining whether a particular party is interested for protest purposes involves consideration of the party's status in relation to the procurement (e.g., prospective bidder or offeror; bidder or offeror eligible for award; bidder or offeror not eligible for award; non-bidder or non-offeror). Die Mesh Corporation, 58 Comp. Gen. 111 (1978), 78-2 CPD 374.

As a general rule, the interests in whether the award of a contract is proper are adequately protected by limiting the class of parties eligible to protest to disappointed bidders or offerors. Die Mesh Corporation, supra.

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However, in some instances a non-bidding entity has been considered sufficiently interested to protest concerning which bidder or offeror properly should have received award. Many of these cases involve some type of organization which, although not a competitor for the contract, arguably has a substantial economic interest in the outcome of the procurement. For example, a parents' association was held to be an interested party to protest the award of a contract for operation of a day care center where its members' fees accounted for approximately 15 percent of the total operational cost of the center, and nearly one-third of the contract price. Department of Labor Day Care Parents' Association, 54 Comp. Gen. 1035 (1975), 75-1 CPD 353. As pointed out in that decision, other such cases have involved a labor union and civic and trade associations. Also, as noted in Elec-Trol, 56 Comp. Gen. 730 (1977), 77-1 CPD 441, in some instances a potential subcontractor may be sufficiently interested to protest a prime contract award. Thus, in Educational Projects, Inc., 56 Comp. Gen. 381(1977), 77-1 CPD 151, a firm which was listed as a subcontractor in a rejected proposal was considered an interested party for purposes of filing a protest.

However, in the instant case, Falcon does not allege any interest in the procurement which would allow it, as a non-bidder, to have protest standing. Therefore, Falcon is not an interested party under our Bid Protest Procedures to have its protest considered on the merits.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel