

Regency 2001

DECISION



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

FILE: B-208031.2

DATE: October 22, 1982

MATTER OF: Professional Helicopter Pilots
Association

DIGEST:

Pilots Association whose members would be employed by the successful bidder in procurement for flight instruction services is not an "interested party" under GAO Bid Protest Procedures to protest agency decision to use formal advertising rather than negotiation since bidders under solicitation make up group of parties with more direct interest in asserting this basis of protest.

The Professional Helicopter Pilots Association protests any award under invitation for bids (IFB) No. DABT01-82-B-0120, issued as a total small business set-aside by the Department of the Army for flight training courses at Fort Rucker, Alabama. The Pilots Association contends that the sophisticated nature of the flight instruction services "dictates" that the procurement be conducted by negotiation rather than by formal advertising.

The Pilots Association alleges that performance of the flight instruction services requires several hundred fixed wing and rotary wing instructors and associated aircraft. According to the protester, solicitation of such sophisticated services by negotiation would "permit enhanced incentives * * * and a more superior job for the Army." The Pilots Association further argues that pertinent regulatory provisions specifically authorize negotiation for these services since the procurement involves the instruction of personnel in the use of highly technical equipment.

We dismiss the protest because we find that the Pilots Association is not an "interested party" under our Bid Protest Procedures.

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Our procedures require that a party be "interested" for its protest to be considered. 4 C.F.R. § 21.1(a) (1982). In determining whether a protester satisfies the interested party criterion, we examine the degree to which the asserted interest is both established and direct. In making this evaluation, we consider the nature of the issues raised and the direct or indirect benefit or relief sought by the protester. Kenneth R. Bland, Consultant, B-184852, October 17, 1975, 75-2 CPD 242.

As a general rule, the interests involved 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, 58 Comp. Gen. 111 (1978), 78-2 CPD 374. Where, however, the stated interest in the procurement has been sufficiently compelling, we have considered protests by labor unions and civic, trade and parents associations. See Falcon Electric Company, Inc., B-199080, April 9, 1981, 81-1 CPD 271.

On the other hand, it is not enough merely to be an individual employee of a disappointed bidder or offeror, Dale Chlouber, B-190638, December 20, 1977, 77-2 CPD 484; a concerned citizen, Patti R. Whiting, B-187286, September 29, 1976, 76-2 CPD 298; or a union which believes that its members might be employed by the successful contractor if the work were open to competition, Marine Engineers Beneficial Association; Seafarers International Union, 60 Comp. Gen. 102 (1980), 80-2 CPD 418.

Here, we understand that the Pilots Association is composed of pilots likely to be employed as instructors by the successful bidder. Its claim that a negotiated procurement would "permit enhanced incentives," presumably to the pilots, is not explained in the protest. The record shows that nine bidders competed under the solicitation and none has protested the procurement method chosen by the Army. We believe these bidders make up a group of potential protesters who have a more direct interest than the Pilots Association in complaining about the method of procurement used. See Cardion Electronics, 58 Comp. Gen. 591 (1979), 79-1 CPD 406. Thus, we view the Pilots

Association as not qualifying as an interested party
within the meaning of our Bid Protest Procedures.

We dismiss the protest.

Harry R. Van Cleve
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Acting General Counsel