

DECISION

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

11/02/84
PL/II

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FILE: B-216366

DATE: November 30, 1984

MATTER OF: Durham Manufacturing Co.

DIGEST:

1. Where the award of a contract is to be made to the low offeror, a protest from the third low offeror under an RFP is dismissed, since, in the absence of any indication that the second low offeror is in fact ineligible for award, the protester would not be next in line for the award even if its protest were sustained. In this circumstance, the protester lacks the requisite direct and substantial interest in the award to be considered an "interested party" under GAO's Bid Protest Procedures.
2. A protest challenging the small business size status of the apparent successful offeror is not for GAO's consideration, since exclusive authority to determine such matters is statutorily vested with the Small Business Administration.

Durham Manufacturing Co. protests the proposed award of a contract to Universal Aircraft Parts, Inc. under request for proposals (RFP) No. F41608-84-R-9707, issued as a 100 percent small business set-aside by the Department of the Air Force. The procurement is for the acquisition of aircraft engine ring seals. Section M-46 of the RFP provided that offered seals had to be manufactured by the two approved sources listed therein. Durham complains that Universal's low offer should be rejected because Universal proposes to furnish seals manufactured by other than the two approved sources. Durham also challenges Universal's status as a small business concern. We dismiss the protest.

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Under our Bid Protest Procedures at 4 C.F.R. § 21.1(a) (1984), a protester must have a direct and substantial interest with regard to the contract award to be considered an "interested party" and thus to invoke the review authority of this Office. Lockheed Engineering and Management Services, Inc., B-212858, Dec. 23, 1983, 84-1 CPD ¶ 18. The RFP did not request technical proposals and the award is to be made to the low offeror. Durham is only the third low offeror under the RFP. The agency's report does not indicate, nor has Durham alleged, that the second low offeror is in any way ineligible to receive the contract award. Therefore, Durham lacks the requisite direct interest to make it an "interested party" because it is not the firm next in line for the award. Donald Harris, Inc., B-214124.2, Mar. 1, 1984, 84-1 CPD ¶ 258.

The Air Force states that Durham's challenge to Universal's small business size status has been referred to the Small Business Administration (SBA) for review. We will not consider the matter in any event, since, under the provisions of the Small Business Act, 15 U.S.C. § 637(b)(5) (1982), the exclusive authority to determine such matters is vested with the SBA. Industrial Lease Inc. of Fayetteville, B-204446, Aug. 31, 1981, 81-2 CPD ¶ 191.

The protest is dismissed.

Harry R. Van Cleve
 Harry R. Van Cleve
 General Counsel