



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: First Continental Bank Building Partnership

File: B-224423

Date: September 3, 1986

DIGEST

Where protester is the fourth low offeror in a procurement in which price is the determining factor, has been so advised, and has not contested the acceptability of the second-low and third-low offerors (who the agency advises meet the solicitation's requirements), the protester lacks the necessary direct economic interest to qualify as an interested party eligible to pursue a protest against award to the low offeror.

DECISION

First Continental Bank Building Partnership (Partnership) protests the General Services Administration's (GSA) award of a contract under solicitation for offers No. NEG-SMD-496 for the lease of office space. The Partnership alleges that GSA improperly accepted the awardee's late offer and that the awardee's property does not conform to the solicitation's requirements.

We dismiss the protest on grounds that the Partnership is not an interested party as required under the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3551(a) (Supp. III 1985), and our Bid Protest Regulations, 4 C.F.R. § 21.0(a) (1986).

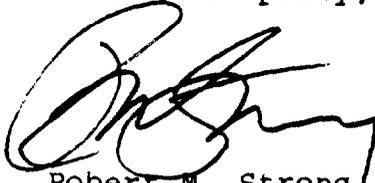
An interested party is defined in both CICA and our Regulations as an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. Generally, a party will not be deemed to have the necessary economic interest where there are other intervening offerors that would be in line for award if the awardee were eliminated from the competition. SRM Manufacturing Co., B-222521, B-222522, July 31, 1986, 86-2 C.P.D. ¶ ____.

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GSA reports that the Partnership is the fourth-low evaluated offeror and that, even if the protest is sustained, two other acceptable offerors stand between the protester and the award. GSA further reports that it advised the Partnership of this fact 1 week after the protest was filed with our Office. The agency report specifically names the intervening offerors (Formcraft Corporation and the Millard Shopping Center) and advises that every building offered meets the solicitation's requirements.

The Partnership addressed the issue of the acceptability of the intervening offers for the first time in its comments on the agency report by stating that ". . . to get up to second bidding position all I need to do is point out that some of the space that was available [from the intervening offerors] at the time of the bidding is now leased."

The Partnership appears to think that this statement is sufficient to remove the obstacle presented by the two intervening offers, and thus to establish its interest. Since the agency report identified the intervening offerors, however, and the Partnership neither alleged nor provided specific information showing that the space offered by Formcraft or Millard no longer was available, there is no basis for concluding that either offeror would not be in line for award were the protest sustained on the merits. As the Partnership therefore is not next in line for award, it is not an interested party, and its protest is dismissed.



Robert M. Strong
Deputy Associate
General Counsel