



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Northwest Piping, Inc.

File: B-230769.2

Date: April 1, 1988

DIGEST

A protester which is not an actual or prospective offeror in the procurement is not an interested party to protest awardee's revision after bid opening of listing of certified Indian subcontractors.

DECISION

Northwest Piping, Inc. (NPI), protests the award of a contract by the Turtle Mountain Band of Chippewa Indians, under Bureau of Indian Affairs (BIA) project No. W56-651-A-61, to John T. Jones Construction Company (Jones), for construction of Turtle Mountain Community School, Belcourt, North Dakota. We dismiss the protest.

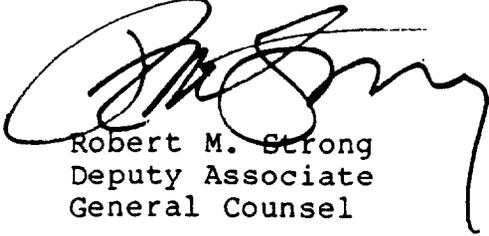
The protester alleges that Jones, the apparent low bidder, revised its Indian subcontracting plan after the bid opening in violation of competitive procurement rules and the Indian Self-Determination Act, 25 U.S.C. § 450 et. seq. (Supp. III 1985). According to NPI, Jones listed NPI in its original bid as the certified Indian subcontractor for the mechanical work on the project, but revised its list of certified Indian subcontractors after bid opening and omitted NPI without NPI's consent. NPI contends that the revision was an improper bid modification which violated the solicitation's 30 percent certified local Indian subcontracting requirement.

While we will consider subcontractor protests where the subcontract is "by or for" the government, we will only do so where the protester is an interested party as defined in the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3551 (Supp. III 1985). See U.S. PolyCon Corp., B-219298, Sept. 18, 1985, 85-2 CPD ¶ 298. CICA defines an interested party for purposes of eligibility to protest as an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract." This statutory definition of an interested party is reflected in our Bid Protest

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Regulations implementing CICA. 4 C.F.R. § 21.0(a) (1987). Since NPI by its own admission is not an actual or prospective bidder or offeror on the protested solicitation, it does not qualify as an interested party under CICA and our Regulations. See Mid-South Dredging Co.--Request for Reconsideration, B-228677.2, Aug. 20, 1987, 87-2 CPD ¶ 191.

The protest is dismissed.



Robert M. Strong
Deputy Associate
General Counsel