



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: D.P.W.P. Sand and Gravel

File: B-230234

Date: May 2, 1988

DIGEST

Protest against road construction solicitation specifying use of particular road surfacing material is dismissed where the protester is, at most, a subcontractor to a potential bidder, and therefore is not an interested party under the General Accounting Office Bid Protest Regulations.

DECISION

D.P.W.P. Sand and Gravel protests allegedly restrictive specifications used by the U.S. Forest Service in invitation for bids (IFB) No. R8-6-88-18 for road construction at the Kisatchie National Forest in Louisiana. The protester objects to the agency's requirement of Winn Maintenance Stone as surfacing material since the only source of this rock is the Winn Rock, Inc. quarry in Winnfield, LA.

The agency issued the IFB on January 8, 1988 for work associated with reconstruction of approximately 5.5 miles of Forest Service (FS) road 509, 4.44 miles of which consists of pre-existing Winn stone surface and for which the Forest Service is requiring Winn Stone.^{1/} Bid opening has been postponed.

The record indicates that as a result of a private dispute, Winn refuses to supply its rock to the H. H. Holston Construction Co., or its subcontractors, one of whom is the protester. Subsequent to receipt of the agency report, we were informed by the agency that the protester is not a potential bidder for the road reconstruction work but would serve as a subcontractor for Holston, which would like to bid on the project.

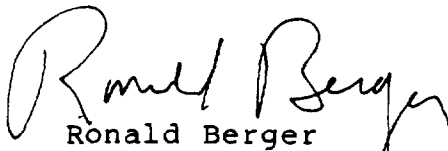
^{1/} Winn rock allegedly converts to a material similar to plaster of paris when exposed to air and water. Also, when spread on a pre-existing Winn rock surface, the material bonds with that surface owing to its self-cementing characteristics.

CAC-9/135726

Under the Competition in Contracting Act of 1984 (CICA), this Office only decides protests filed by an "interested party," defined 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." 31 U.S.C. § 3551(2) (Supp. III 1985); 4 C.F.R. § 21.0(a) (1988); Environmental Systems Research institute, B-219797, Oct. 23, 1985, 85-2 CPD ¶ 449. Prospective subcontractors or suppliers do not have the requisite interest to be considered an interested party to protest under CICA since they are not prospective or actual offerors. Flex-O-Lite, Inc., B-229818, Feb. 23, 1988, 88-1 CPD ¶ 187.

From the information provided by the agency, it appears that the protester does not expect to nor could it provide the resources necessary to reconstruct FS road 509. The protester's correspondence demonstrates that it hauls and supplies aggregate for Holston and that supplying aggregate constitutes merely a portion of the work required by the solicitation. Thus, D.P.W.P. is not eligible to protest this procurement, since our Office is precluded by the terms of CICA from reviewing protests by potential subcontractors. See Pyrotector, Inc., B-230102 et al., Mar. 25, 1988, 88-1 CPD ¶ ____.

The protest is dismissed.


Ronald Berger
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