



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Merdan Group, Inc.
File: B-231880.2
Date: October 28, 1988

DIGEST

Where firm would not be in line for award were its protest sustained, protest is dismissed since protester does not have the required direct interest in the contract award to be considered an interested party under General Accounting Office Bid Protest Regulations.

DECISION

Merdan Group, Inc. protests the award of a contract to Comcon, Inc. under request for proposals (RFP) No. DAAB07-88-R-C257, issued by the U.S. Army Communications-Electronics Command, for the acquisition of scientific, engineering, and integrated logistics support services. Merdan asserts that the awardee does not have qualified personnel to perform the contract, that the Army failed to follow the evaluation criteria set forth in the RFP because cost was given excessive weight, and that the award amount appears to be unrealistically low.

We dismiss the protest.

The RFP, issued on March 8, 1988, provided that award would be made to the responsible offeror submitting the "best overall proposal," representing the "best value" to the government. The RFP contained the following evaluation criteria in descending order of importance: 1) technical qualifications; 2) management control; 3) personnel; and 4) cost.

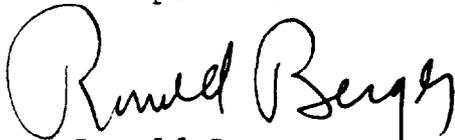
Six firms submitted offers in response to the RFP. After best and final offers (BAFOs), three offerors, including Merdan, were rated "superior." Although Merdan had a slightly higher overall score than the other two offerors, the Army states that all three offerors had "essentially the same rating--superior." Among these three offerors, the awardee submitted the low offer, another firm submitted the second low offer, and Merdan submitted the third low

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offer. Thus, the record shows that even if Merdan's protest were sustained, the second low offeror, not Merdan, would be in line for award since it also submitted a technically superior offer.^{1/}

Under our Bid Protest Regulations, we will only consider a protest by an interested party, i.e., an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. §§ 21.0(a), 21.1(a) (1988). A party is not an interested party to protest where it would not be in line for award were its protest sustained. See, e.g., Systems-Analytics Group Corp., B-229836, Apr. 12, 1988, 88-1 CPD ¶ 358. Here, as stated above, the protester offered the highest price of the three technically superior proposals that were essentially equal. Consequently, even if we were to conclude that the contract was improperly awarded to the low offeror, Merdan would still not be in line for award.

The protest is dismissed.



Ronald Berger
Associate General Counsel

^{1/} Merdan argues that contrary to the terms of the RFP, the Army improperly gave greater weight to cost than to technical qualifications in evaluating offers. We disagree. Our decisions consistently state that where, as here, proposals are considered technically equal, cost or price may become the determinative factor in making award, notwithstanding that the evaluation criteria assign cost or price less importance than technical considerations. Cobro Corp., B-228410, Dec. 16, 1987, 87-2 CPD ¶ 600.