

BENJAM



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Blue Cross and Blue Shield of Maryland, Inc.
File: B-234579
Date: May 16, 1989

DIGEST

The General Accounting Office will dismiss any protest where the matter involved is the subject of litigation before a court of competent jurisdiction unless the court requests a decision.

DECISION

Blue Cross and Blue Shield of Maryland, Inc. (BCBSM), protests the Health Care Financing Administration's (HCFA) award of a contract under Proposal Submission Requirement (PSR) No. 88-04-A,B to Empire Blue Cross and Blue Shield (Empire) for the maintenance and enhancement of the Medicare Common Working File (CWF), a data base for Medicare claims. The protester challenges HCFA's evaluation of BCBSM's proposal.

We dismiss the protest.

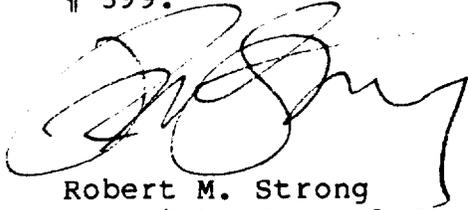
HCFA issued the PSR on September 30, 1988. Six proposals were received by the closing date of November 28. A competitive range of three offerors, including BCBSM and Empire was established on December 20. Best and final offers (BAFO) from the three offerors were received on January 19, 1989. Based on its evaluation of the three BAFO's, HCFA awarded the CWF contract to Empire.

BCBSM filed this protest in our Office on February 21, following an initial protest to HCFA. On May 8, after receiving a debriefing, BCBSM filed a complaint in the

0-5484/138691

United States District Court for the District of Columbia,
Blue Cross and Blue Shield of Maryland, Inc. v. United
States Department of Health & Human Services, Civil Action
No. 89-1260.

It is our policy not to decide protests where the matter involved is the subject of litigation before a court of competent jurisdiction, unless the court requests our decision. 4 C.F.R. § 21.9(a) (1988); Grafton McClintock, Inc.; BGM Corp., B-218549, Apr. 18, 1985, 85-1 CPD ¶ 448. The general grounds of BCBSM's protest--allegedly improper evaluation procedures and criteria--are identical or similar to those made by BCBSM in the lawsuit. Since these contentions are part of the litigation and since there is no indication that the court requests, expects, or is interested in our decision, we dismiss the protest. Travelogue, Inc., B-216673.10; B-216673.11, Apr. 8, 1985, 85-1 CPD ¶ 399.



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