

Timmerman



**Comptroller General  
of the United States**

Washington, D.C. 20548

**Decision**

**Matter of:** Ahtna, Inc.--Reconsideration

**File:** B-235761.7

**Date:** July 17, 1990

Robert M. Goldberg, Esq., Robert M. Goldberg & Associates, P.C., for the protester.  
Barbara Timmerman, Esq., and James Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

**DIGEST**

Highest priced acceptable offeror under request for proposals providing for award to low cost acceptable offeror is not an interested party under General Accounting Office Bid Protest Regulations to protest award to low priced offeror; protester's unsupported and untimely assertion that all intervening offerors might be unacceptable is not sufficient to establish it as an interested party within the meaning of the Regulations.

**DECISION**

Ahtna, Inc. requests reconsideration of our February 26, 1990, dismissal of its protest against the award of a contract to Slana Energy, Inc. under request for proposals (RFP) No. F65517-87-R-0001, issued by the Department of the Air Force for electrical power for the Alaska portion of the Over-the-Horizon Backscatter Radar System, a part of the United States early warning radar system. We summarily dismissed Ahtna's protest because the firm was not an interested party under our Bid Protest Regulations.

We affirm the dismissal.

The RFP provided for the award of a requirements contract for a 1-year test period plus a 20-year operation period. Award was to be made to the offeror with the lowest evaluated life-cycle cost whose proposal was also acceptable in the technical and management areas, provided the offeror's cost was lower than the cost of a government constructed and operated plant.

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On the closing date, the Air Force received seven proposals. Discussions were conducted with all offerors and all seven submitted best and final offers. The agency rejected one proposal as technically unacceptable and another proposal was withdrawn. The remaining five proposals were determined to be acceptable in the technical and management areas. After analyzing the life-cycle cost of each proposal, the agency made award to Slana based on low evaluated life-cycle contract cost. Ahtna proposed the highest evaluated cost of five remaining proposals.

In a protest filed with our Office on February 26, Ahtna argued that the awardee was a shell corporation that was not in existence at the time it submitted its offer, was not licensed to do business in Alaska, and was not a responsible offeror capable of meeting the liquidated damages requirement of the solicitation. Ahtna also speculated that all of the intervening offerors were shell corporations that were not licensed to do business in Alaska.

Ahtna had previously submitted a protest of this award that we dismissed in Ahtna, Inc., B-235761.3, B-235761.4, Dec. 1, 1989, 89-2 CPD ¶ 507, aff'd on recon., B-235761.5, Feb. 28, 1990, 90-1 CPD ¶ 245, for, among other reasons, Ahtna's failure to qualify as an interested party eligible to maintain a protest against the award. In this regard, the record showed that Ahtna was the fifth low acceptable offeror under the RFP, which provided for award to the low acceptable offeror. Since Ahtna would not have been in line for award even if its protest were sustained, it was not considered an interested party under our Regulations. See 4 C.F.R. §§ 21.0(a), 21.1(a) (1990). We viewed Ahtna's supposition that all the other offerors in line for award might be found nonresponsible to be too tenuous to support a finding that the firm was an interested party. Keal Cases, Inc., B-233370, Jan. 12, 1989, 89-1 CPD ¶ 34.

In this request for reconsideration, Ahtna essentially disagrees with our conclusion that it is not an interested party. Ahtna asserts again that, since the three intervening offerors as well as the awardee were shell corporations not licensed to do business in Alaska when they submitted their offers, Ahtna is in line for award.

We still do not consider Ahtna an interested party eligible to maintain a protest against this award. Ahtna, as the fifth low acceptable offeror under an RFP which provided for award to the low acceptable offeror, remains in too remote a position to establish interest within the meaning of our Regulations, since there are intermediate parties that have a greater interest. Caltech Serv. Corp., B-234424, May 1, 1989, 89-1 CPD ¶ 414. Ahtna's unsupported and untimely

contention that all intervening offerors were not corporations licensed in Alaska does not establish the requisite "interest." In this regard, unsupported allegations concerning intervening offerors are insufficient to establish a protester as an interested party within the meaning of our Regulations. See Professional Medical Prods., Inc., B-231743, July 1, 1988, 88-2 CPD ¶ 2.

Moreover, a protester has the responsibility to ascertain any possible basis for protest and to timely protest on that basis in sufficient detail so as to provide this Office and the agency with a reasonable understanding of why award of a contract to one or more offerors allegedly would be improper. Americover Co.--Recon., B-234352.2, Apr. 27, 1989, 89-1 CPD ¶ 408. In this case, Ahtna waited approximately 7 months after its initial protest of the award before raising this issue, and still has provided no support for its supposition. Thus, we do not consider Ahtna to have established the requisite interest to maintain a protest.

The dismissal is affirmed.



*for* James F. Hinchman  
General Counsel