



Comptroller General
of the United States

Washington, D.C. 20548

Ayer

Decision

Matter of: Signal Corporation

File: B-240450

Date: August 8, 1990

R.H. Mody, for the protester.

Roger H. Ayer, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

A company is not an interested party to protest its alleged improper exclusion from the competitive range and to pursue claim for proposal and protest costs when (1) prior to filing its protest the firm voluntarily releases its proposed team members from their commitments to work for the firm should it receive the award, and (2) expressly rejects reinstatement in the competition and award of a contract as a remedy in the event its protest is sustained.

DECISION

Signal Corporation protests the decision of the National Institute of Allergy and Infectious Diseases, Department of Health and Human Services (HHS), to exclude Signal's proposal from the competitive range under request for proposals (RFP) No. NIAID-DAIDS-90-26.

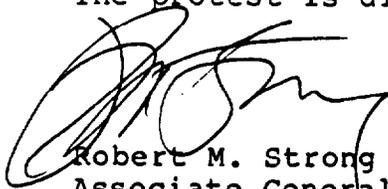
HHS eliminated Signal from the competitive range on June 5 and debriefed it on July 1. Signal contends that the exclusion was improper both because the technical evaluation was inaccurate and because the evaluators considered evaluation factors not found in the RFP. Before filing its July 16 protest with our Office, Signal reports that it disbanded its proposed team by releasing the team members from their respective commitments to work on the contract. Signal advises that "[c]onsequently, it would serve no useful purpose to request that our proposal be reevaluated, or that Signal be restored to the competitive range since we would be unable to conduct effective discussions." Thus, Signal seeks only recovery of its protest and proposal costs if its protest is sustained.

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Under the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3551(2) (1988), our Office only decides protests filed by an "interested party," which CICA defines 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."

Signal's voluntary release of its proposed team and its unequivocal assertion that it did not want to be further considered in the procurement effectively removed it from the competition before Signal filed its protest objecting to the agency excluding it from the competitive range. See Lionhart Group, Ltd., B-232731, Oct. 12, 1988, recon. denied, Lionhart Group, Ltd.--Request for Recon., B-232731.2, Nov. 4, 1988, 88-2 CPD ¶ 445. We consider a firm's statement that it is no longer interested in obtaining the contract to affect its status as an interested party. See L&M Servs., Inc.--Reconsideration, B-190873, Mar. 6, 1978, 78-1 CPD ¶ 175; Hugo Neu Steel Prods., Inc., B-184888, Feb. 24, 1976, 76-1 CPD ¶ 127. Since Signal disavows any interest in being reinstated in the competitive range--a precondition of award--and its protest seeks nothing beyond recovery of its costs, it is clear that Signal no longer can claim to be an "actual or prospective bidder or offeror whose direct economic interest would be effected by the award of the contract or by failure to award the contract." Consequently, Signal cannot be considered an interested party for purposes of this protest and entitled to a decision from our Office. Since a prerequisite to the award of costs is a decision on the merits of a protest, there is no basis for the awarding of costs. Moody Bros./Troika, Int'l, Inc./C.G. Willis Inc.--Claim for Costs, B-237278.3, Dec. 22, 1989, 89-2 CPD ¶ 590.

The protest is dismissed and the claim denied.



Robert M. Strong
Associate General Counsel