

C. Glass



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Rantec Microwave & Electronics, Inc.

File: B-241151

Date: December 20, 1990

Kenneth B. Weckstein, Esq., and Constance A. Wilkinson, Esq., Epstein Becker & Green, P.C., for the protester. Richard J. Conway, Esq., Dickstein, Shapiro & Morin, for JTP Radiation, Inc., R. Doss McComas, Esq., for Radiation Systems, Inc., interested parties. John R. McCaw, Esq., and Lorna L. John, Esq., Department of Transportation, Federal Aviation Administration, for the agency. Linda C. Glass, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

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

DECISION

Rantec Microwave & Electronics, Inc. protests the award of a contract to JTP Radiation, Inc. under request for proposals (RFP) No. DTFA01-88-R-06530, issued by the Federal Aviation Administration (FAA), for the acquisition of tactical air navigation (TACAN) antennas.^{1/} Rantec asserts that the mechanically-rotating antennas proposed by JTP are incapable of meeting certain material requirements of the RFP, and thus JTP's proposal should have been rejected as unacceptable. Rantec also argues that the FAA's evaluation failed to reflect the significant disparity in technical merit of the JTP and Rantec proposals, and that because the FAA's evaluation, understated the technical inferiority of JTP's proposal, the finding of technical equality between the two firms and therefore award on the basis of lowest price was unreasonable.

^{1/} The TACAN is a system used primarily by military aircraft to determine aircraft position by measurement of distance and bearing from a fixed-ground station.

Finally, Rantec contends that JTP failed to meet definitive responsibility criteria contained in the RFP.

We dismiss the protest.

The RFP, issued on July 11, 1988, provided that award would be made to the responsible offeror whose proposal was considered to be the most advantageous to the government. The RFP contained the following evaluation criteria: (1) hardware design; (2) reliability and maintainability; (3) environmental and design construction; (4) test program and configuration control; and (5) software. The RFP further provided that technical factors were slightly more important than price.

Six proposals from five firms were received in response to the RFP. After best and final offers (BAFOs), four offerors, including Rantec, were rated technically acceptable and essentially equal. Although Rantec had a slightly higher technical overall score than the other three offerors, the FAA states that none of the proposals within the competitive range was technically superior. The source selection official determined the four "offerors to be equivalent from a technical standpoint" and made award to JTP based on lowest price. Among these four offerors, the awardee submitted the low offer, another firm submitted the second low offer, and Rantec submitted the third low offer. The record shows that the second low offeror, like Rantec, offered an electronically-rotated antenna, and had a slightly lower overall score than Rantec. Thus, the record shows that even if Rantec's protest were sustained, the second low offeror, not Rantec, would be in line for award since it also submitted a technically equal proposal offering to supply an electronically-rotated antenna at a lower price than Rantec's.

Under our Bid Protest Regulations, 4 C.F.R. § 21.0(a) (1990), a party must be "interested" in order to have its protest considered by our Office. Determining whether a party is sufficiently interested involves consideration of a party's status in relation to a procurement. Where there are intermediate parties that have a greater interest than the protester, we generally consider the protester to be too remote to establish interest within the meaning of our Bid Protest Regulations. See Automated Servs., Inc., B-221906, May 19, 1986, 86-1 CPD ¶ 470; Brunswick Corp. and Brownell & Co., Inc., B-225784.2 et al., July 22, 1987, 87-2 CPD ¶ 74. A party will not be deemed interested where it would not be in line for the protested award even if the protest were sustained. See id.

Here, as stated above, all offerors included in the competitive range were considered technically equal. The second low offeror proposed an electronically-rotated antenna. As Rantec

has not contested the acceptability or technical equality of the second low offeror, we have no reason to believe that Rantec would be in line for award if its protest were sustained. Accordingly, Rantec is not an interested party entitled to protest.2/

The protest is dismissed.



Michael R. Golden
Assistant General Counsel

2/ The record shows that the protester was on notice from the protest proceedings that four firms were found technically equal and that all but the low offeror submitted electronic antennas. While the protester may not have known that its offer was only third low, this does not alter the fact that if we were to sustain its protest, it would not be in line for award.