



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

Decision

Matter of: Commonwealth Eng., Inc.
File: B-245544.2
Date: November 19, 1991

J. Bruce Carroll for the protester.
Lt. Col. William H. Spindle, Esq., Department of the
Air Force, for the agency.
Katherine I. Riback, Esq., Office of the General Counsel,
GAO, participated in preparation of the decision.

DIGEST

Protest that agency improperly rejected protester's proposal as technically unacceptable is dismissed since record shows that the agency intends to award based on initial proposals and protester would not have been the low offeror even had its proposal been considered, thus causing the protester to lack the direct economic interest necessary to protest.

DECISION

Commonwealth Eng., Inc. protests the rejection of its proposal under request for proposals (RFP) No. F08637-91-R0032, issued by the Air Force for aircraft servicing at Tyndall Air Force Base, Florida. Commonwealth argues that its proposal was improperly rejected as technically unacceptable and that the agency evaluators were biased.¹

We dismiss the protest.

The solicitation was issued on August 2, 1991, with a closing date for receipt of proposals of September 10. The solicitation stated that the agency "reserves the right to make award based on initial proposals without discussions," and advised offerors to initially submit proposals on the

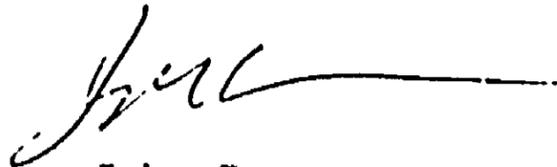
¹The protester also raised an additional issue concerning its use of aircraft mechanics as opposed to aircraft mechanic helpers in its November 7 comments to the Air Forces' request that we dismiss the protest. Since the protester was notified of the rejection of its proposal in late September, this issue is clearly untimely under our Bid Protest Regulations, which require that such matters be raised not later than 10-working days after they are known.
4 C.F.R. § 21.2(a)(2) (1991).

most favorable terms from a price and technical standpoint. The solicitation also stated that award will be made to the firm submitting the lowest priced, technically sufficient offer. At the closing date the Air Force received eight proposals in response to the RFP, five of which, including Commonwealth's, were found to be technically unacceptable. The agency decided to make award without discussions. Actual award has been withheld pending our consideration of the protest.

Under the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551, 3553(a) (1988), and our Bid Protest Regulations, 4 C.F.R. § 21.0(a) (1991), a protester must be an "interested party" before we will consider its protest. To qualify as an interested party, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by the failure to award the contract. Where a protester would not be in line for award if its protest was sustained, it is not an interested party. The Rowland Co., B-244744, Oct. 23, 1991, 91-2 CPD ¶ ____; The Wollongong Group, B-224531, Dec. 18, 1986, 86-2 CPD ¶ 682.

In this case the Air Force has made a determination to award a contract to the lowest cost offeror on the basis of initial proposals. The record shows that the protester's proposal is higher in price than the proposal of the proposed awardee. Thus, even if the protest was sustained and Commonwealth's proposal was to be considered, it would not be in line for award. Accordingly, Commonwealth lacks the direct economic interest necessary to maintain this protest.

The protest is dismissed.



John Brosnan
Assistant General Counsel