



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

Decision

Matter of: Allied Tube & Conduit
File: B-252371
Date: April 27, 1993

Joseph R. San George for the protester.
Ellen Evans, Esq., Garrett L. Rensing, Esq., and Paul M. Fisher, Esq., Department of the Navy, for the agency.
M. Penny Ahearn, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that solicitation specification for construction project is restrictive of competition, filed by a manufacturing firm that is prospective supplier, not actual or prospective bidder, is not an "interested party" eligible to have its protest considered under the Competition in Contracting Act of 1984 and General Accounting Office's implementing Bid Protest Regulations.

DECISION

Allied Tube & Conduit protests as restrictive of competition a specification in invitation for bids (IFB) No. N62474-91-B-2549, issued by the Department of the Navy for installation of chain link fencing. The protester contends that the specification for the piping used for fence posts is overly restrictive because it requires the use of only one grade of pipe. Allied is a manufacturer of a different grade of pipe.

We dismiss the protest because Allied is not an interested party.

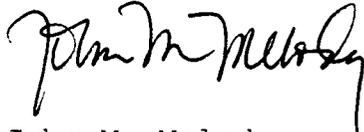
Under the Competition in Contracting Act of 1984 (CICA) and our Bid Protest Regulations, our Office may only decide a protest filed by an "interested party," which the statute defines as an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by the failure to award the contract." 31 U.S.C. § 3551(2) (1988); 4 C.F.R. § 21.0 (1993). A prospective subcontractor or supplier does not have the requisite interest to be considered an interested party to protest under CICA since it is not a prospective or actual

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offeror. PolyCon Corp., 64 Comp. Gen. 523 (1985), 85-1 CPD ¶ 567; Logicon, Inc., B-249750; B-249750.4, Dec. 14, 1992, 92-2 CPD ¶ 411.

The record shows that Allied is a prospective supplier of the required pipe, not an actual or prospective bidder. Allied therefore does not qualify as an interested party under the above definition. Allied argues that it should be regarded as an interested party because its economic interest as a manufacturer and potential supplier of fence pipe to the successful bidder is affected by the Navy's decision to exclude its product. Although this obviously constitutes an economic interest, such an interest is not the direct economic interest of an actual or prospective bidder contemplated by CICA. Thus, Allied is not an interested party to protest the propriety of the solicitation's specifications and its protest will not be considered. See Ultrox Int'l, B-233013, Nov. 29, 1988, 88-2 CPD ¶ 535; Pacific Allied Prods., Ltd., B-220181; B-220182, Oct. 18, 1985, 85-2 CPD ¶ 424.

The protest is dismissed.



John M. Melody
Assistant General Counsel