



Comptroller General
of the United States

Washington, D.C. 20548

10/8/74

Decision

Matter of: Hernandez Engineering, Inc.

File: B-256116.2

Date: April 12, 1994

DECISION

Hernandez Engineering, Inc. protests the Federal Aviation Administration's (FAA) exclusion of the firm from the competition under request for proposals (RFP) No. DFTA-02-92-R-00901 on the ground that the firm allegedly violated the Procurement Integrity Act.

We dismiss the protest.

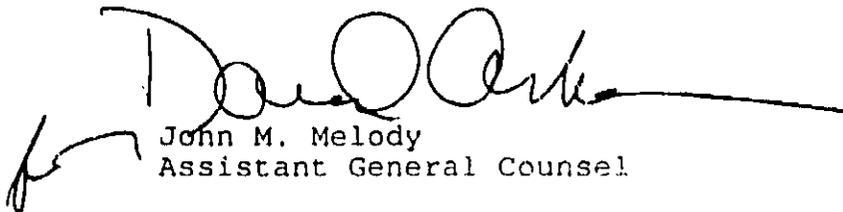
This procurement was the subject of a previous protest (B-256116) filed by Hernandez which we dismissed on February 10, 1994. As noted in our prior decision, according to Hernandez, it extended an offer of employment to an FAA employee, contingent upon his retirement, after receiving assurances from the employee that he was not a procurement official. Subsequently, Hernandez states, it was advised by the contracting officer that it was being disqualified from the procurement because its proposal of the FAA employee in its best and final offer violated the Procurement Integrity Act. Hernandez denies any violation of the Act.

In dismissing Hernandez's protest, we noted that we had been informed by the FAA that the matter had been referred to the Department of Transportation's (DOT) Office of the Inspector General for investigation of possible violations of federal law, including the Procurement Integrity Act. The FAA stated that any disclosure of evidence or investigation results could have a detrimental impact on the on-going investigation. In view of the ongoing investigation of possible violations of federal law, we concluded that the appropriate course of action was to close our file pending the results of the investigation. We requested, however, that the investigation be completed as rapidly as possible and that the protester and our Office be promptly notified of the final results. We indicated that upon receipt of those results, the protester may have the protest

reinstated. See generally George A. and Peter A. Palivos, B-245878.2; B-245878.3, Mar. 16, 1992, 92-1 CPD ¶ 286; Usatrex Int'l, Inc., B-231815.4, Oct. 31, 1988, 88-2 CPD ¶ 413.

In its current protest, Hernandez states that it has been informed that DOT has concluded its investigation and has referred the matter to the appropriate United States Attorney. Since, according to Hernandez, DOT has concluded its investigation, Hernandez contends that our Office should now consider its protest. However, whatever DOT's current role in the investigation, the investigation by federal authorities of possible violations of federal law is continuing. The rationale of our prior decision therefore remains valid: to avoid interfering with the investigation into possible violations of federal law, we will close our file pending the results of the investigation. Again, the investigation should be completed as rapidly as possible and the protester and our Office should be promptly notified of the final results. Any protest may be timely filed within 10 working days after Hernandez's receipt of those results.

The protest is dismissed.



John M. Melody
Assistant General Counsel