



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Luhr Brothers, Inc.

**File:** B-257570; B-257572

**Date:** September 13, 1994

### DECISION

Luhr Brothers, Inc. protests the rejection of its bids under solicitation Nos. DACW43-94-B-0240 and DACW43-94-B-0249, issued by the Department of the Army. The Army has initiated debarment proceedings against Luhr Brothers.

We dismiss this protest on the basis that a suspended or debarred protester is not an interested party to challenge a procurement decision.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988), only an "interested party" may protest a federal procurement. That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a). Suspended or debarred contractors or contractors that are proposed for debarment are not eligible for the award of federal contracts; such a protester is not in line for contract award even if its protest were sustained. See Federal Acquisition Regulation (FAR) § 9.405(a); Pacrak, Inc., B-236798, Nov. 7, 1989, 89-2 CPD ¶ 442. Therefore, we will not consider a protest from a suspended, debarred or proposed for debarment bidder or offeror.

Luhr Brothers argues that the Army's notice of proposed debarment did provide it with the requisite due process because the Army did not provide it with all the underlying documentation for the agency's determination to seek debarment. The record shows that the agency sent a detailed notice of the proposed debarment by certified mail to Luhr Brothers. This notice specifically stated the agency's reasons for proposing to debar Luhr Brothers, and also informed Luhr Brothers of the debarment procedures contained in FAR Part 9.4. We find that the Army's notice of proposed debarment complied with the regulatory requirements. See FAR § 9.406-3(c).

In the event that Luhr Brothers is not suspended or debarred or the proposed debarment is lifted or expires, the protester may request that its file be reopened, provided such request is made in a timely fashion. See Meyer and Lillian Blinder--Recon., B-238783.2, June 26, 1990, 90-1 CPD ¶ 594.



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