



United States Government Accountability Office
Washington, DC20548

Comptroller General
of the United States

Decision

Matter of: Cambridge Federal Solutions, LLC

File: B-400081

Date: June 6, 2008

DECISION

Cambridge Federal Solutions, LLC protests the award of a contract to Angel Staffing, Inc. under request for proposals (RFP) No. FA3047-07-R-0030, issued by the Department of the Air Force, Air Education and Training Command, for nursing services at Lackland Air Force Base, Texas. The RFP was issued as a total set-aside for service-disabled veteran-owned small business concerns (SDVO SBC).

We dismiss the protest because Small Business Administration (SBA) has determined that the protester does not qualify as an SDVO SBC for this procurement; therefore, the protester is not an interested party to challenge the award.

The RFP was issued on November 15, 2007. Ten proposals were received by the December 14 closing date. In early March 2008, after evaluation of the proposals, the Air Force notified offerors that Cambridge had been selected as the apparent successful offeror. Angel and others protested Cambridge's SDVO SBC status to SBA. By letter dated April 2, SBA notified Cambridge that it did not meet the SDVO SBC eligibility requirements because SBA did not receive from Cambridge all of the information it requested.

On April 3, after receiving the SBA determination, the Air Force made award to Angel. On April 4, Cambridge appealed SBA's decision to the Office of Hearings and Appeals (OHA), arguing that it had in fact submitted all required documents. Cambridge specifically requested that the Air Force stay the procurement, citing 13 C.F.R. § 134.504, which requires an automatic stay following an OHA appeal unless an agency makes a written determination to override the stay to protect the public interest. On April 8, the contracting officer made a written determination to override the stay on the basis that award was necessary to maintain the health and welfare of Department of Defense beneficiaries. Air Force Motion to Dismiss, attach. 2, at 1.

On April 18, after learning of the award (by letter of April 10), Cambridge filed this protest with our Office. That same day, OHA remanded the matter to SBA for a new SDVO SBC determination on the merits and Cambridge was allowed to resubmit the missing documents. Cambridge argues that the Air Force improperly failed to stay the procurement pending the outcome of its appeal to OHA, that Angel's proposal does not provide the best value to the government, and that Angel will not use one of the subcontractors it proposed, so the evaluation improperly took into account the subcontractor's past performance.

The Air Force requested that we dismiss the protest, arguing that Cambridge was not an interested party because, at the time of the decision to make award to Angel, the SBA had determined that Cambridge did not qualify as an SDVO SBC.

On April 29, SBA again determined that Cambridge did not meet SDVO SBC eligibility requirements because it could not conclude that a service-disabled veteran conducts the day-to-day management and administration of the business operations of Cambridge, as required by 13 C.F.R. § 125.10(a). Based on this determination, the Air Force renewed its request that we dismiss the protest for lack of interested party status. However, Cambridge appealed SBA's April 29 determination to OHA, and it argues that we should not dismiss its protest prior to resolution of this appeal.

On June 2, OHA issued a decision denying Cambridge's appeal and affirming SBA's April 29 determination that Cambridge did not meet SDVO SBA eligibility requirements. The June 2 decision specifically states that "[t]his is the final decision of the Small Business Administration." Air Force Submission, attach. 1, SBA Determination, June 2, 2008, at 5.

Under our Bid Protest Regulations, 4 C.F.R. § 21.1(a) (2008), only an "interested party" may protest a federal procurement. In order to be an interested party, a protester must have a direct economic interest which would be affected by the award of a contract or the failure to award a contract. A protester is not an interested party where it would be ineligible for award even if its protest were sustained. S.A. SABER, B-249874, Dec. 10, 1992, 92-2 CPD ¶ 403 at 2. Here, since Cambridge has been found by SBA to be other than an SDVO SBC, as required by the solicitation, it is ineligible for award. It follows that Cambridge is not an interested party to protest the agency's actions.

The protest is dismissed.

Gary L. Kepplinger
General Counsel