

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-182420

DATE: October 17, 1975

MATTER OF: Coleman Transfer and Storage, Inc.

DIGEST:

Large business protesting awardee's alleged lack of ICC authority to perform contract pursuant to small business set-aside procurement is not "interested party" under GAO protest procedures since specific issue raised relates solely to matter extraneous to eligibility requirement under which protester was excluded from procurement. Thus, protest will not be considered on merits.

Coleman Transfer and Storage, Incorporated (Coleman), has protested the contract award to Ace Moving and Storage Company, Incorporated (Ace), under invitation for bids (IFB) No. F25600-75-B-0015, issued by the Procurement Division, Offutt Air Force Base, Nebraska. The invitation, a partial small business set-aside, solicited bids for a variety of services associated with the movement of household goods. The invitation provided for three schedules or types of services, that is, outbound, inbound and intra-city and intra-area moves. Areas of performance were specified in each schedule. Area I of schedule III, under which Ace was the low bidder, was set-aside for small business concerns, and involves intra-city and intra-area service, including drayage, covering certain Nebraska and Iowa counties. The IFB advised prospective contractors that appropriate authority from the Interstate Commerce Commission (ICC) was required under the proposed contract.

It is Coleman's position that Ace is not a qualified bidder on area I of schedule III because it does not hold ICC authority for that area. While noting that Ace does in fact hold proper operating authority from the State of Iowa, Coleman contends that Ace does not hold proper Nebraska State authority. Coleman argues that, in view of the limited authority possessed by Ace, the firm cannot legally perform all services which could possibly be required under the contract, that Ace is therefore not qualified and that its bid should be rejected. An award of the contract in question was made to Ace in December 1974.

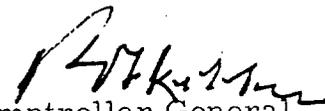
Initially, Ace raises the question of whether Coleman has "standing" to protest this award action, since the requirement is set-aside for small business concerns and Coleman is a large business and therefore ineligible for award. Under our Interim Bid Protest Procedures and Standards, an "interested party" may protest such an award as this. 4 C.F.R. § 20.1(a) (1975). This requirement is carried forward in our current Bid Protest Procedures. 40 Fed. Reg. 17979 (1975). We do not equate standing to sue with "interested party" as used in our procedures, Kleen-Rite Janitorial Service, Inc., B-178752, March 21, 1974, 74-1 CPD 139.

A protester may well be viewed as possessing a sufficient interest in the award selection even though the protester may not or does not choose to bid on the procurement, as for example, protests considered by this Office which were filed by a labor union, a contractors' association, and a Chamber of Commerce. See District 2, Marine Engineers Beneficial Association - Associated Maritime Officers, AFL-CIO, B-181265, November 27, 1974, 74-2 CPD 298; B-177042, January 23, 1973, and 49 Comp. Gen. 9 (1969). Generally, in determining whether a protester satisfies the interested party criterion, consideration should be given to a variety of factors, such as the nature of the issues raised and the direct or indirect benefit or relief sought by the protester. This serves to insure the protester's diligent participation in the protest process so as to sharpen the issues and provide a complete record on which the propriety of the procurement will be judged.

In the case at hand the primary issue relates to the apparent low bidder's eligibility for award. In our opinion the GAO bid protest procedure (both interim and current) that only an "interested" party may file a protest requires in this case that either Coleman be eligible for contract award or, if ineligible, that the issue raised must relate to whether the protester was properly disqualified or whether the apparent low bidder meets the eligibility criterion used to disqualify the protester. Coleman's protest relates to a matter which is extraneous to the eligibility requirement under which Coleman was excluded from the competition. Accordingly, we conclude that Coleman is not an interested party and may not have its protest considered.

B-182420

For the reasons stated, this protest will not be further considered.


Deputy Comptroller General
of the United States