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**DECISION**



*Bruce Chertin*  
*Proc. I*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE: B-187379**

**DATE: December 22, 1976**

**MATTER OF: Black Business Association**

**DIGEST:**

1. Agency's contention that protest should be denied because protester who did not submit proposal has not established standing is denied, since protester is clearly "interested party" within meaning of term as used in Bid Protest Procedures, 4 C.F.R. § 20.1(a) (1976).
2. Protest that solicitation is inadequate and does not meet program needs will not be considered on merits, since Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1976), provide that protests filed initially with contracting agency will be considered if filed within 10 working days of receipt of initial adverse agency action. The adverse agency action, receipt of initial proposals occurred on August 13, 1976, and the protest was not received in GAC until September 9, 1976; therefore, protest is untimely.
3. Allegation that modification of solicitation restricts competition and that only incumbent contractors knew that solicitation could be modified is moot, since there were no modifications and all offerors submitted offers on equal basis and awardee had never been incumbent contractor.

This is a protest by the Black Business Association (BBA) against an award under solicitation No. 6-36725 issued by the Department of Commerce to provide management and technical assistance to socially and economically disadvantaged persons interested in becoming owners of businesses.

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The record indicates that on August 10, 1976, BBA filed a protest with Commerce. The protest was not received until August 17, 1976, but advance notice of the protest had been received by the San Francisco Regional Office. The protest stated that the solicitation was not addressed to program needs and that it was:

"\* \* \* inadequate, late, non-renewable, discriminatory, without consideration of bonding problems, without a provision for contract advocacy, without an appreciation of the geographical differences between the East and West Bay."

The closing date for receipt of initial proposals was August 13, 1976. Proposals were received from 6 organizations. BBA did not submit a proposal.

By letter dated August 26, 1976, and received by the BBA on August 30, 1976, the contracting officer denied the protest. The contracting officer stated that during negotiations:

"\* \* \* many aspects of the Government's estimate and requirements as set forth in the solicitation may be changed, including the level of effort, geographical areas, minimum performance goals, and work requirements. \* \* \*

By letter dated September 3, 1976, and received in our Office on September 9, 1976, BBA filed a protest reiterating its first basis and adding a second contention that if the specifications can be modified, competition is restricted and the door is open "\* \* \* to fraudulent manipulations by those few who are apprised of such 'conditions'. These few would include those currently under contract with the Department of Commerce \* \* \*."

Commerce contends that the protest should be denied because the protester has not established standing. We disagree.

Our Bid Protest Procedures, 4 C.F.R. § 20.1(a) (1976), provide that a party must be "interested" in order that its protest might be considered. The requirement that a party be "interested" serves

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to insure a party's diligent participation in the protest process so as to sharpen the issues and provide a complete record on which the correctness of a challenged procurement may be decided. A protester may well be viewed as possessing a sufficient interest in the award selection in question even though the protester may not or does not choose to bid on the procurement. In the past, under different circumstances, our Office has considered protests filed by such organizations as a labor union, a contractor's 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 the nature of the issues raised and the direct or indirect benefit or relief sought by the protester. See Kerjeth R. Bland, Consultant, B-184832, October 17, 1975, 75-2 CPD 242.

Having these factors in mind, it is our view that the BBA is clearly an "interested party" within the meaning of 4 C.F.R. § 20.2(a), supra.


Our Bid Protest Procedures, 4 C.F.R. § 20.2(a) (1976), state that a protest filed initially with the contracting agency will be considered if filed within 10 working days of receipt of initial adverse agency action. The receipt of initial proposals on August 13, 1976, constituted the adverse agency action denying BBA's protest of August 10. See Kleen-Rite Janitorial Service, Inc., B-178990, February 19, 1974, 74-1 CPD 78. Therefore, BBA had until August 27, 1976, to protest the allegedly inadequate solicitation. Since the protest was not received in our Office until September 9, 1976, this aspect of the protest is untimely.

BBA's contention that the solicitation restricts competition because it can be amended to permit certain items to be modified

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and that the only organizations which knew this were incumbent contractors is moot, since we have been informed that there were no amendments to the solicitation and all offerors were submitting offers on the same basis. Furthermore, the awardee is a nonprofit corporation formed by minority contractors which has never been a contractor for Commerce.

Accordingly, we will not consider the protest on the merits.

*for*   
Paul G. Deabling  
General Counsel