

DECISION



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

11963

PL-1
Mr. Vickers

FILE: B-196437

DATE: November 7, 1979

MATTER OF: Photonics Technology, Inc.

DIGEST:

[Protest Alleging Awardee Lacks Necessary Experience]

Protest filed by prospective subcontractor of one offeror against selection of another offeror as prime contractor is dismissed as not filed by "interested party" under Bid Protest Procedures since protest does not relate to protester's qualifications but to entitlement of successful offeror to contract and, therefore, adequate protection is afforded by restricting protesters to those who submitted offers.

DLB 03303

United Technologies Corp.

Photonics Technology, Inc. (Photonics), protests the award of a prime contract to Norden, a division of United Technology, by the Naval Electronics Systems Command.

ABC 445

Photonics was a proposed subcontractor of Hughes Aircraft Company, another offeror for the prime contract, and was to supply AC plasma display panels to Hughes. Hughes has not protested to our Office.

CMB-1616

Photonics' protest is based on allegations that Norden does not possess the necessary experience in the manufacture of the panels, that there was a leak during the negotiation process and there is confusion among the Navy and Norden as to the need for a patent license for the panels.

The initial question to be decided is whether Photonics is an "interested party" under our Bid Protest Procedures (4 C.F.R. § 20.1(a) (1979)) for the purpose of consideration of its protest. We have held that where there is a possibility that recognizable

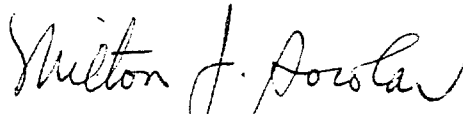
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interests would be inadequately protected if our bid protest forum were restricted to offerors in individual procurements; we would recognize the rights of nonofferors, including proposed or possible subcontractors, to have their protests considered on the merits. Abbott Power Corporation, B-186568, December 21, 1976, 76-2 CPD 509; Infodata Systems, Inc., B-190479, November 21, 1977, 77-2 CPD 390.

In the instant case, the bases for Photonics' protest are not specifically related to its qualification as a prospective subcontractor, but are primarily relevant to Norden's entitlement to the prime contract award. Under the circumstances, we believe that legitimate, recognizable interests are adequately protected by limiting the class of parties eligible to protest these issues to parties who have submitted offers. In view of the fact that neither Hughes nor any other offeror has protested, we do not consider this protest to have been filed by an interested party within the meaning of our Bid Protest Procedures.

Concerning the types of relief requested by Photonics which do not relate to the awarding of the prime contract, these are matters of contract administration and for consideration by the Navy and not GAO. As to Photonics' request that its proposal be kept confidential, sections 3-507 and 3-508 of the Defense Acquisition Regulation (1976 ed.) prescribe the manner in which an agency is to treat information contained in a proposal.

Accordingly, the protest is dismissed.



Milton J. Socolar
General Counsel