

DECISION



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

12657 *transp.*  
[Protest Alleging That Solicitation Was Deficient]

FILE: B-197125, B-197125.2

DATE January 28, 1980

MATTER OF: S&N Trucking Company; Condor Transportation Company

DIGEST:

1. Firm ineligible to compete under IFB is not "interested party" under GAO's Bid Protest Procedures to protest alleged solicitation deficiencies unrelated to question of eligibility.
2. Allegation that firm is improperly registered under District of Columbia's Minority Contracting Act of 1976 is for consideration by District of Columbia under provisions of statute

*ON 52*  
S&N Trucking Company and Condor Transportation Company protest the proposed award by the District of Columbia (District) of a contract under invitation for bids (IFB) No. 0443-AA-91-1-9-MC to supply fuel oil. The firms contend that the solicitation was deficient in a number of respects, and that Tricentennial Corporation (Tricentennial), the incumbent contractor and the firm which the protesters allege is in line for the award of the new contract, is improperly registered as a local minority business enterprise under section 9(b) of the District's "Minority Contracting Act of 1976," D.C. Law 1-95 (1977) (the Act). The protesters therefore believe that Tricentennial is not eligible either to continue performance under its present contract or for award under the instant IFB. Apparently, both the contract and the IFB were issued pursuant to the program established by the District under section 8 of the Act to assist local minority businesses, and a firm would have to be so registered under section 9(b) to be eligible to perform the services involved.

*DLB 03711*  
*DLB 03712*  
*Contract award protests*

With respect to the alleged solicitation deficiencies, we will consider a protest under our Bid Protest Procedures, 4 C.F.R. part 20 (1979) (Procedures), only when filed by an "interested party," as determined by the nature of the issues raised and the direct or

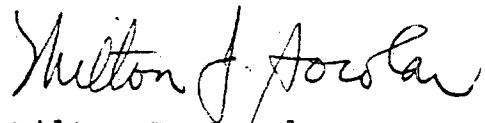
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*eligibility criteria minority business contracts minority businesses*

indirect benefit or relief sought. State Equipment Division of Seacorp National, Inc., 55 Comp. Gen. 1467 (1976), 76-2 CPD 270. In this regard, we are advised that neither of the protesters submitted a bid, since neither was registered under section 9(b), and we note that the alleged deficiencies are unrelated to eligibility under the Act. Since neither party would be eligible for award in any event if its protest were sustained, we do not consider either one to be sufficiently "interested" under our Procedures for the protests on this issue to be considered. Kentucky Building Maintenance, Inc., B-196368, January 16, 1980, 80-1 CPD \_\_\_\_.

Regarding Tricentennial's status as a properly registered local minority business and its entitlement to the proposed award, we have been advised by the District that Tricentennial is the second low bidder, not the low bidder for the new contract, although a protest by Tricentennial against the responsibility of the low bidder is pending before the procuring activity. In any event, in our view the proper forum for the resolution of this matter is the District's Minority Business Opportunity Commission (Commission), not GAO. Section 9(e) of the Act allows any person to prefer charges of a violation of the Act to the Commission against any applicant for registration or contractor already registered. The section provides for an expedited hearing by the Commission on the charges, and for revocation of the registration, or other action, as determined proper. Thus, in our view this issue is not appropriate for our consideration.

DLV  
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The protests are dismissed.



Milton J. Socolar  
General Counsel