

DECISION

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

FILE: B-220026 **DATE:** September 30, 1985
MATTER OF: AAR Brooks & Perkins

DIGEST:

1. Where a large business protester is ineligible for award under a total small business set-aside, GAO will not consider its objection to not being furnished a copy of the solicitation since the protester is not an interested party whose direct economic interest would be affected by a resolution of this issue.
2. Protest against the set-aside of the solicitation for small business, which was publicized through a Commerce Business Daily notice, is untimely since the protest was filed more than 1 month after the closing date set forth in the notice.

AAR Brooks & Perkins (AAR) protests the Air Force's failure to furnish the company with solicitation No. FD2050-85-82237, issued by McClellan Air Force Base, Sacramento, California, for a quantity of litter support brackets for the C130 aircraft. We dismiss the protest.

The requirement initially was synopsisized in the June 10, 1985, edition of the Commerce Business Daily (CBD), listing several qualified manufacturers of the aircraft part, including the protester, and specifying a closing date of July 26. According to AAR, the company made two telephonic requests for the solicitation and was informed on both occasions by Air Force contracting personnel that the firm would be sent the solicitation. AAR alleges that after it received no response to these requests, it again contacted the Air Force contracting personnel on August 21 and was told that award was ready to be made under the solicitation. On August 22, AAR also was told that the solicitation had been changed to a total small business set-aside and that an amended notice to that effect had been published in the CBD.

On August 30, AAR filed a protest with our Office. AAR contends that, as one of the sources listed in the CBD notice, it automatically should have received the solicitation and that the Air Force's failure to furnish

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the solicitation, despite repeated requests from AAR, unfairly deprived the company of an opportunity to compete for the award. With regard to the solicitation later being changed to a small business set-aside, AAR contends that the Air Force failed to announce this properly because AAR reviewed the editions of the CBD subsequent to June 10 and found no notice of the change.

We find that AAR is not an interested party to protest the Air Force's failure to furnish it a copy of the solicitation. To be considered an interested party so as to have standing to protest, a party must be an actual or prospective bidder whose direct economic interest would be affected by the award of a contract or the failure to award a contract. Electronic Systems U.S.A., Inc., B-219754, Sept. 5, 1985, 85-2 C.P.D. ¶ _____. The Air Force informally has advised us that AAR is a large business. AAR therefore was ineligible for award under the solicitation since it was restricted to small businesses and, consequently, is not an interested party. Tri-States Service Company, B-211862, Sept. 26, 1983, 83-2 C.P.D. ¶ 374; Gibraltar Industries, B-212023, June 24, 1983, 83-2 C.P.D. ¶ 17. As for AAR's charge that the Air Force did not announce the small business set-aside, a superseding synopsis of the requirement appeared in the June 17 edition of the CBD which stated that the proposed procurement would be a total small business set-aside, the size standard for which was no more than 1,000 employees.

AAR also makes a general assertion that the Air Force failed to provide for full and open competition. To the extent that AAR is challenging the propriety of the small business set-aside by this assertion, the company's protest is untimely filed and will not be considered on the merits. Regardless of whether AAR actually knew of the June 17 CBD notice, when a procuring agency publishes a synopsis of a procurement in the CBD, protesters are charged with constructive notice of the solicitation and its contents. Aurora Spectrum International, B-214162, Feb. 13, 1984, 84-1 C.P.D. ¶ 185. Where, as here, the synopsis contains the solicitation closing date, any protest against alleged improprieties in the solicitation must be filed prior to that date. See Detroit Broach and Machine--Reconsideration, B-213643.2, July 12, 1984, 84-2 C.P.D. ¶ 43. We further note that the synopsis of June 17 specified the same July 26 closing date as the original notice of which AAR was aware.

The protest is dismissed.

A handwritten signature in black ink, appearing to read 'R. Strong', written in a cursive style.

Robert M. Strong
Deputy Associate General Counsel