



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tate Access Floors

File: B-227756

Date: July 31, 1987

DIGEST

A protester challenging a proposed contract award to a higher bidder is not an interested party under General Accounting Office Bid Protest Regulations, and its protest thus is dismissed, where even if its protest were upheld, the protester would not be in line for award because its bid is nonresponsive as the result of its failure to contain a required bid guarantee.

DECISION

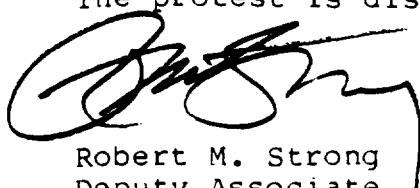
Tate Access Floors protests the Internal Revenue Service's proposed award of a contract under invitation for bids (IFB) No. IRS-NA-87-21 for the installation of a raised computer floor. Tate argues that it submitted the lowest bid and that there was another bid that was also lower than the awardee's bid. The contracting agency states that it rejected both Tate's bid and the second low bid as nonresponsive, leaving Leejon Construction Company as the lowest responsive bidder. We dismiss Tate's protest because Tate is not an interested party to challenge the proposed award to the lowest responsive bidder under our Bid Protest Regulations.

Our Bid Protest Regulations, 4 C.F.R. § 21.1(a) (1987), require a party to be "interested" before our Office will consider its protest. A party is not interested if it would not be in line for award should its protest be upheld. Central Air Service, Inc., B-218833.2, May 21, 1985, 85-1 C.P.D. ¶ 580. A party is not in line for award if its bid has been rejected as nonresponsive. Beckman Instruments, Inc., B-220794, B-220795, Feb. 20, 1986, 86-1 C.P.D. ¶ 178. Except for a limited number of exceptions, none of which are applicable to this case, a bid is required to be rejected as nonresponsive when the solicitation requires a bid guarantee and the bid fails to contain one. Jedco, B-223579, Aug. 26, 1986, 86-2 C.P.D. ¶ 228; Federal Acquisition Regulation, 48 C.F.R. § 28.101-4 (1986). Tate has not contested the agency's rejection of its bid as nonresponsive.

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Since we have no reason to question the rejection of Tate's bid as nonresponsive, its ineligibility for award precludes Tate from having the standing to protest the award as an interested party.

The protest is dismissed.

A handwritten signature in black ink, appearing to read "Robert M. Strong".

Robert M. Strong
Deputy Associate
General Counsel