



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Bonar August Systems

File: B-231366

Date: May 23, 1988

DIGEST

Prospective subcontractor to an unsuccessful offeror in a procurement generally is not an interested party to protest that the selected offer does not meet all the solicitation's requirements. Moreover, the fact that the subcontractor might have bid on its own had it known a nonconforming offer would be acceptable is not relevant, since the only way to reach that issue is by considering the propriety of the award, and where there is an intermediate party (the unsuccessful offeror) that has a greater interest than the protester, we generally consider the protester to be too remote to qualify as an interested party for protest purposes.

DECISION

Bonar August Systems protests the proposed award of a contract to Triconex under a solicitation issued by Mason Chamberlain Inc. as a prime contractor, for the Department of the Army, of a government-owned, contractor-operated facility. Bonar, which says that it would have been a major subcontractor to another offeror in the procurement, Control Systems International (CSI), argues that Triconex's offer does not meet all of the solicitation's requirements, so that CSI should be awarded the contract. Bonar further argues that it would have been able to submit an offer in its own right if it had known that Mason Chamberlain was going to accept an offer like Triconex's, that is, an offer that allegedly reflects an apparent reduction or relaxation of the stated technical requirements.

We dismiss the protest.

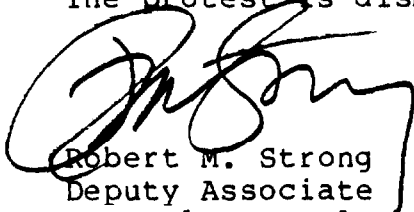
While we will consider a subcontractor protest where the subcontract is "by or for the government," Bid Protest Regulations, 4 C.F.R. § 21.3(m)(10) (1988), we will do so

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only where the protester is an "interested party" as defined in the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3551(2) (Supp. III 1985). See Mid-South Dredging Co.--Request for Reconsideration, B-228677.2, Aug. 20, 1987, 87-2 ¶ 191. CICA defines an interested party for purposes of eligibility to protest as an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by the failure to award the contract". This statutory definition is reflected in section 21.0(a) of our Bid Protest Regulations.

It is CSI, an actual offeror under Mason Chamberlain's solicitation, and not CSI's proposed subcontractor, that has the direct economic interest contemplated by CICA for purposes protesting the decision to accept Triconex's offer. Further, while we understand Bonar's point about what it might have done had Mason Chamberlain's solicitation been less restrictive, the only way to reach the issue of the propriety of the award is through a protest of the decision to accept Triconex's offer. Where there is an intermediate party of greater interest than the protester (like CSI here), we generally consider the protester to be too remote to establish interest within the meaning of CICA and our Regulations. See Brunswick Corp. and Brownell & Co. Inc., B-225784.2, et al., July 22, 1987, 87-2 ¶ 74.

The protest is dismissed.


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