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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Norden Service Company, Inc.

File: B-231575

Date: July 5, 1988

DIGEST

Protest of allegedly improper procurement is dismissed while protest filed by an interested third party involving the same procurement is pending before the General Services Administration Board of Contract Appeals.

DECISION

Norden Service Company, Inc., protests the award to any other firm of a contract for Automated Weather Observing Systems (AWOS) under invitation for bids (IFB) No. DTFA01-88-B-06742, issued by the Federal Aviation Administration (FAA).

We dismiss the protest.

Bids were opened on March 24, 1988. In a letter dated April 28, 1988, Norden, the third low bidder, protested to the contracting officer that award should not be made to either of the other lower bidders, Qualimetrics, Inc. and Artais, Inc., on the grounds that: (1) bids submitted by both firms were based, in part, on non-certified components and, therefore, were nonresponsive; and (2) neither firm is a responsible bidder for the type of procurement in issue. The FAA found Qualimetrics' low bid to be responsive and the firm responsible. Norden received notice of the agency's denial of its protest on May 20.

Norden's present protest, filed with our Office on May 31, renews its allegations concerning bid responsiveness and the responsibility of Qualimetrics and Artais as bidders in this procurement. In addition, Norden argues that the use of an IFB to procure the AWOS was improper under applicable regulations and statutes.

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On June 10, Artais, the second low bidder, filed a protest concerning this procurement with the General Services Administration Board of Contract Appeals (GSBCA). Before the GSBCA, Artais alleges the first two grounds of protest raised by Norden, that is, the responsiveness of Qualimetrics' bid and the responsibility of the firm. Artais also alleges that the procurement concerns automated data processing equipment and is subject to the GSBCA's protest jurisdiction under section 2713(a) of the Competition in Contracting Act of 1984, 40 U.S.C. § 759(f) (Supp. IV 1986).

Our Bid Protest Regulations provide that a procurement may not be protested to the General Accounting Office while it is the subject of a protest to the GSBCA. 4 C.F.R. § 21.3(m)(6) (1988). The same result obtains even where protests in the two forums have been lodged by different concerns. See, e.g., AT&T Technologies, Inc., B-221379, Jan. 24, 1986, 86-1 CPD ¶ 90.

Because the same procurement giving rise to the present protest by Norden is also the subject of an active protest to the GSBCA by Artais, it would be inappropriate for us to consider Norden's present complaint. Despite Norden's assertions, the simple fact remains that the dispositive legal issue central to Norden's protest, the responsiveness and responsibility of the low bidder, Qualimetrics, is before the GSBCA and has also been put in issue by Norden's protest with our Office. Stated differently, a GSBCA ruling that Qualimetrics was properly found by the contracting officer to be responsive and responsible would render Norden's protest to our Office academic. Under these circumstances, we will not review the matter.

The protest is dismissed.



Ronald Berger
Deputy Associate
General Counsel