



Comptroller General
of the United States
Washington, D.C. 20848

Gary

145638

Decision

Matter of: Telos Corporation

File: B-246177

Date: January 13, 1992

John G. Karjala, Esq., GTE Contel Federal Systems, for the protester.
H. Michael Batsel, for MFS, Inc., and Janis P. Rodriguez, Esq., for Digital Equipment Corporation, interested parties.
Eileen P. Manley, Esq., Office of the General Counsel, Department of the Treasury, for the agency.
Stephen J. Gary, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest by firm that would not be in line for award if the protest were sustained is dismissed; the protester does not have the requisite direct economic interest in the contract award to be considered an interested party under the General Accounting Office's Bid Protest Regulations.

DECISION

Telos Corporation protests the award of a contract to Digital Equipment Corporation (DEC) under request for proposals (RFP) No. A-91-7, issued by the Department of the Treasury for maintenance of three VAX 8800 computers, one VAX 8650 computer, and all associated peripheral equipment. Telos contends that the agency's determination that DEC's proposal was technically superior to its own, and therefore warranted payment of a higher price, was improper; the selection of DEC therefore violated solicitation provisions requiring that award be made to the low, technically acceptable offeror unless another offeror's technical superiority warranted payment of a price premium.

We dismiss the protest.

Under our Bid Protest Regulations, only an "interested party" may protest a federal procurement. 4 C.F.R. § 21.1(a) (1991). An interested party is an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a); Black Hills Refuse Serv., 67 Comp. Gen. 261 (1988), 88-1 CPD ¶ 151. The record in

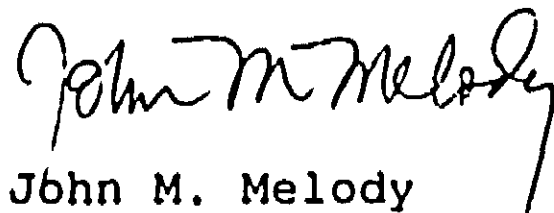
this case indicates that Telos is not an interested party under our Regulations.

Determining whether a party is sufficiently interested involves consideration of that party's status in relation to the procurement. Where there is another party that has a greater interest than the protester, we generally consider the protester to be too remote to establish interest within the meaning of our Regulations. See Brunswick Corp. and Brownell & Co., Inc., B-225784.2; B-225784.3, July 22, 1987, 87-2 CPD ¶ 74; Automated Servs., Inc., B-221906, May 19, 1986, 86-1 CPD ¶ 470. A party will not be deemed interested where it would not be in line for the protested award even if its protest were sustained. Brunswick Corp. and Brownell & Co., Inc., supra.

The agency has responded to the protest by arguing, among other things, that Telos is not an interested party because, even if our Office were to find that the protester's contentions were correct, Telos would not be next in line for award. Specifically, the agency reports that another offeror, MFS, Inc. (MFSI), was technically acceptable and lower in price than Telos. Consequently, even if Telos were correct in stating that the technical merit of DEC's proposal, relative to its own, did not warrant DEC's higher price, and that award should be made instead to the low, technically acceptable offeror, MFSI, not Telos, would be in line for the award. In its comments on the report, Telos continues to argue that DEC's technical proposal was not superior to its own. Telos remains silent, however, on the matter of MFSI's technical acceptability and lower price and its impact on Telos' standing to pursue the protest, despite the agency's disclosure of MFSI's proposal and evaluation materials to Telos under a protective order issued by our Office.

We conclude that Telos was not next in line for award and thus is not an interested party eligible to pursue this protest. See Rantec Microwave & Elecs., Inc.-Recon., B-241151.2, Feb. 28, 1991, 91-1 CPD ¶ 227.

The protest is dismissed.



John M. Melody
Assistant General Counsel