



Comptroller General  
of the United States

Washington, D.C. 20548

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*Mc Namara*

## Decision

Matter of: Tri Tool, Inc.

File: B-261829

Date: July 18, 1995

### DECISION

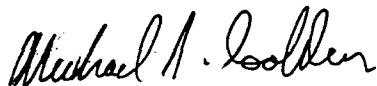
Tri Tool, Inc. protests the award of a contract to the E.H. Wachs Company under solicitation No. SP0490-95-R-1570, issued by the Defense General Supply Center for various pipe cutting and beveling machines. Tri Tool states that the machines offered by E.H. Wachs, specifically citing two model numbers, do not comply with the solicitation requirement that the machines be "one of the manufacturer's current models" inasmuch as they were developed for the sole purpose of competing on this procurement. Tri Tool states that it could have submitted a much lower price than it did had it also been permitted to offer machines built simply for this procurement rather than its own "current models."

We dismiss this protest on the basis that the protester is not an interested party.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988), only an "interested party" may protest a federal procurement. That is, a protester must be an actual or prospective supplier 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). Determining whether a party is interested involves consideration of a variety of factors, including the nature of issues raised, the benefit of relief sought by the protester, and the party's status in relation to the procurement. Black Hills Refuse Serv., 67 Comp. Gen. 261 (1988), 88-1 CPD ¶ 151. A protester is not an interested party where it would not be in line for contract award were its protest to be sustained. ECS Composites, Inc., B-235849.2, Jan. 3, 1990, 90-1 CPD ¶ 7. Tri Tool submitted the fifth lowest-priced offer received on this procurement. Assuming the veracity of its arguments that neither E.H. Wachs' nor the next two lowest-priced offers complied with the "current models" requirement, there remains one offer that is lower-priced than Tri Tool's that Tri Tool admits is compliant with the requirement. Since

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that offeror would be eligible for award were the three lowest-priced offers rejected, the protester lacks the direct economic interest required to maintain its protest. We note that the agency, while still maintaining that it did not waive the "current models" requirement in making the award, states that it has no intention of conducting this procurement without requiring compliance with the "current models" requirement.



Michael R. Golden  
Assistant General Counsel