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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Latvian Connection, LLC

File: B-410801; B-410802; B-410803; B-410804; B-410805; B-410806;
B-410807; B-410808; B-410809; B-410810; B-410811; B-410812;
B-410813; B-410814; B-410815; B-410816; B-410817; B-410818;
B-410819; B-410820; B-410822; B-410823; B-410824; B-410826;
B-410828; B-410829; B-410830; B-410835; B-410836; B-410837;
B-410838; B-410839; B-410841; B-410842; B-410843; B-410844;
B-410845; B-410847; B-410849; B-410853; B-410854; B-410855;
B-410856; B-410857; B-410858; B-410859; B-410860; B-410861;
B-410862; B-410863; B-410864; B-410865; B-410867; B-410868;
B-410869; B-410870; B-410871; B-410872; B-410873

Date: December 22, 2014

Keven L. Barnes, for the protester.

Behn M. Ayala, Esq., and Major Michael G. King, Department of the Air Force, for the agency.

Jonathan L. Kang, Esq., and Ralph O. White, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.¹

DIGEST

Protests challenging the agency's failure to set aside and to properly publicize multiple solicitations as small business set-asides are dismissed where the agency states that the solicitations do not exist.

DECISION

Latvian Connection, LLC, of Kuwait City, Kuwait, challenges the terms of 59 solicitations that the protester alleges were issued by the Department of the Air

¹ While these protests were originally assigned to multiple attorneys in our Office, when it was determined that the issues were identical, the protests were consolidated and handled as a group.

Force for work at Ali Al Salem Air Base, Kuwait.² The protester contends that the solicitations should have been issued as small business set-asides, and that the agency failed to properly publicize these solicitations.³

We dismiss the protests.

From November 18, 2014, to November 25, Latvian Connection filed 59 protests with our Office. In each protest, Latvian Connection argued that the Air Force contracting activity at the 386th Expeditionary Wing (386 ECONS) issued a solicitation that was valued at more than \$3,000, but less than \$150,000, for work to be performed at Ali Al Salem Air Base, Kuwait. Based on the alleged value of the solicitations, the protester argued that the agency was required to set aside each solicitation for exclusive small business participation under the Federal Acquisition Regulation (FAR), the Small Business Act, and regulations promulgated by the Small Business Administration. The protester also argued that none of the solicitations had been publicized, as required by the FAR.

Latvian Connection did not identify the requirements of any of the alleged solicitations. Instead, each protest contained essentially identical language alleging that the Air Force had acted in bad faith by failing to set aside and publicize the solicitations. The solicitation numbers identified in the protests appeared to be sequential numbers: 20 solicitation numbers followed the format of FA5703-15-Q-

² Latvian Connection represents that it is a veteran-owned small business. The firm's registration in the System for Award Management states that its company headquarters is in Healdsburg, California. The protests list the firm's primary contact information as its local office in Kuwait City, Kuwait.

³ The solicitation numbers are: FA5703-15-Q-0001, FA5703-15-Q-0002, FA5703-15-Q-0003, FA5703-15-Q-0004, FA5703-15-Q-0005, FA5703-15-Q-0006, FA5703-15-Q-0007, FA5703-15-Q-0008, FA5703-15-Q-0009, FA5703-15-Q-0010, FA5703-15-Q-0011, FA5703-15-Q-0012, FA5703-15-Q-0013, FA5703-15-Q-0014, FA5703-15-Q-0015, FA5703-15-Q-0016, FA5703-15-Q-0017, FA5703-15-Q-0018, FA5703-15-Q-0019, FA5703-15-Q-0020, FA5703-15-T-0001, FA5703-15-T-0002, FA5703-15-T-0003, FA5703-15-T-0004, FA5703-15-T-0005, FA5703-15-T-0006, FA5703-15-T-0007, FA5703-15-T-0008, FA5703-15-T-0009, FA5703-15-T-0010, FA5703-15-T-0011, FA5703-15-T-0012, FA5703-15-T-0013, FA5703-15-T-0014, FA5703-15-T-0015, FA5703-15-T-0016, FA5703-15-T-0017, FA5703-15-T-0018, FA5703-15-T-0020, FA5703-15-R-0001, FA5703-15-R-0002, FA5703-15-R-0003, FA5703-15-R-0004, FA5703-15-R-0005, FA5703-15-R-0006, FA5703-15-R-0007, FA5703-15-R-0008, FA5703-15-R-0009, FA5703-15-R-0010, FA5703-15-R-0011, FA5703-15-R-0012, FA5703-15-R-0013, FA5703-15-R-0014, FA5703-15-R-0015, FA5703-15-R-0016, FA5703-15-R-0017, FA5703-15-R-0018, FA5703-15-R-0019, and FA5703-15-R-0020.

00##, apparently relating to requests for quotations; 19 solicitation numbers followed the format of FA5703-15-T-00##, apparently relating to requests for task order proposals or quotes; and 20 solicitation numbers followed the format of FA5703-15-R-00##, apparently relating to requests for proposals.

The Air Force filed a request to dismiss all of the protests, stating that the solicitations identified by Latvian Connection do not exist.⁴ Agency Request for Dismissal (Nov. 26, 2014) at 2. The agency's request included a statement by an Air Force captain at 386 ECONS that "[n]one of the solicitation numbers addressed by these protests exists or were issued by 386 ECONS." Decl. of Air Force Captain (Nov. 25, 2014) at 1.

In response to the request for dismissal, Latvian Connection contends that the solicitation numbering conventions set forth in Defense FAR Supplement subpart 204.70, as well as 386 ECONS's prior practice for issuing solicitation numbers, make it likely that solicitations were issued using the numbers identified in the protests. The protester argues that the agency's statement that the solicitations do not exist is a "patent lie," and contends that the agency's probable issuance of the solicitations and request for dismissal of the protests are part of widespread "white collar criminal activity" on the part of the Air Force. Protester's Response to Request for Dismissal (Dec. 1, 2014) at 2, 6.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556. Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. Pacific Photocopy & Research Servs., B-278698, B-278698.3, Mar. 4, 1998, 98-1 CPD ¶ 69 at 4. To achieve this end, our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(c)(4), (f) (2014). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Id.

On this record, we conclude that Latvian Connection fails to state a valid basis of protest. The protester effectively acknowledges that it has no direct evidence that the solicitations were issued by the Air Force, and does not know for certain that the solicitations exist. See Protest at 5-6 (referring to "hidden" solicitations that the

⁴ The Air Force also requested that we dismiss the protests, arguing that FAR § 19.000(b) states that the small business set-aside rules in the FAR do not apply to procurements conducted overseas. Because, as discussed below, we dismiss the protests for other reasons, we do not address this argument.

protester cannot find)⁵; Protester's Response to Request for Dismissal (Dec. 1, 2014) at 8-10 (requesting that GAO independently investigate whether the solicitations exist). Instead, the protester speculates that, because the agency has followed a particular numbering convention in the past, the agency was likely to have issued solicitations with the numbers identified in the protests. As discussed above, however, the Air Force states unequivocally that no solicitations have been issued with those numbers, and the protester provides nothing other than its speculation and general allegations of bad faith to rebut the agency's assertion.

Additionally, because Latvian Connection's arguments are based on speculation concerning the existence of the 59 solicitations, the protester is unable to make any specific representations concerning those solicitations. For example, the protests do not identify any of the requirements for the alleged solicitations, and therefore cannot explain why those requirements should be set aside for small businesses or why the solicitations were required to be publicized. In the absence of such information, the protester is also unable to demonstrate why it would be an interested party to challenge the solicitations--even if they existed. See 31 U.S.C. § 3551(2); 4 C.F.R. § 21.0(a)(1).

In sum, we conclude that these protests are based entirely on speculation and guesswork. In light of the Air Force's representations that the solicitations do not exist, and the protester's failure to meaningfully rebut those representations, we dismiss the protests. See 4 C.F.R. § 21.5(f).

The protests are dismissed.

Susan A. Poling
General Counsel

⁵ References to the "protest" are to identical sections in all 59 protests.