



Decision

Matter of: RJH Supply, LLC

File: B-421043

Date: October 20, 2022

Robert Hoffman, RJH Supply, LLC, for the protester.
James Goodman, III, Esq., Government Publishing Office, for the agency.
Michael P. Price, Esq., and John Sorrenti, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

An authorized sales agent is not an interested party to pursue a protest with our Office on its own behalf where the agent is not itself a prospective bidder or offeror and lacks a direct economic interest in the procurement, as required by our Bid Protest Regulations.

DECISION

RJH Supply, LLC (RJH Supply), a small business of Davidsonville, Maryland, protests the agency's actions relating to the procurement conducted under request for quotations (RFQ) No. 635-485 (also referred to as Jacket 635-485), issued by the Government Publishing Office (GPO) for trail signage for the National Park Service (NPS). The protester contends that the signage should have been procured from Federal Prison Industries, Inc. (UNICOR), in accordance with Federal Acquisition Regulation (FAR) part 8.¹

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

On July 20, 2022, NPS sent a requisition to GPO for trail signage for use along the Lewis and Clark National Historic Trail. Req. for Dismissal, exh. B, SF-1 Printing and Binding Requisition at 1-2. On September 7, GPO issued an RFQ for the signage with a closing date for receipt of quotations of September 8 at 2:00 p.m. Eastern Time. Req.

¹ Federal Prison Industries, Inc., also referred to as UNICOR, is a self-supporting, wholly owned Government corporation of the District of Columbia. FAR 8.601.

for Dismissal, exh. A, Jacket (RFQ) at 1. The RFQ required vendors to submit quotations using GPO's online portal. *Id.*

On September 8 at 9:53 a.m., RJH Supply, an authorized sales and marketing agent for UNICOR, submitted a quotation containing UNICOR's pricing via an email sent directly to NPS.² Req. for Dismissal, exh. D, Protester Correspondence with Government at 2-3. In an email response acknowledging receipt of the UNICOR quotation, NPS copied GPO, which in turn sent an email asking the protester whether it submitted UNICOR's quotation using GPO's online portal. *Id.* at 2. At 11:17 a.m., the protester responded that it had not submitted UNICOR's quotation using the GPO portal, but argued that UNICOR was the named source for the signage and therefore could submit its quotation directly to NPS, in accordance with the FAR. *Id.* at 1.

Following the 2:00 p.m. deadline for receipt of quotations, the agency issued the abstract of the quotations received. Req. for Dismissal at 2; Req. for Dismissal, exh. E, Abstract for Jacket 635-485 at 1. The UNICOR quotation was not included in the abstract.³ *Id.* On September 12, RJH Supply filed a protest with our Office.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3557, only an "interested party" may protest a federal procurement. That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. Bid Protest Regulations, 4 C.F.R. § 21.0(a)(1). Determining whether a party is interested involves consideration of a variety of factors, including the nature of issues raised, the benefit or relief sought by the protester, and the party's status in relation to the procurement. *RELM Wireless Corp.*, B-405358, Oct. 7, 2011, 2011 CPD ¶ 211 at 2.

GPO requests that our Office dismiss the protest, arguing that RJH Supply is not an interested party because: (1) the protester is not an actual or prospective bidder, because it did not properly submit a quotation through the GPO portal in accordance with the RFQ; and (2) the protester does not have a direct economic interest that would be affected by the award of this contract. Req. for Dismissal at 2-3.

In its response, RJH Supply confirms that it is protesting on its own behalf, and not that of UNICOR, and does not contest that it did not submit a quotation in accordance with the RFQ's instructions. See Resp. to Req. for Dismissal at 1. Instead, the protester maintains that it had the right to submit a quotation to NPS directly. *Id.* Further, the protester argues that it does have a direct economic interest in the procurement, because there is a "direct economic impact on [RJH Supply's] contract with UNICOR

² RJH Supply explains that it has a sales and marketing contract with UNICOR valued at an estimated \$750,000 to locate federal signage opportunities for UNICOR and submit quotations on their behalf. Resp. to Req. for Dismissal at 1, 3.

³ The agency has not made an award for this procurement. Req. for Dismissal at 2, n.1.

when agencies such as National Park Service and especially GPO find ways to cut UNICOR out of the outlined FAR process.” *Id* at 4.

We find that RJH Supply is not an interested party to protest this federal procurement. First, the protester is not an actual or prospective bidder. As the protester itself concedes, the quotation submitted to NPS was a “UNICOR quote” and though it was submitted by the protester, “everything on the pricing is from UNICOR and the full contract would be fulfilled by UNICOR.” Protester Additional Briefing at 1. Additionally, it is clear from the record that the protester did not submit a quotation in accordance with the RFQ’s instructions. Therefore, we cannot conclude that the protester is an actual or prospective bidder for this procurement.

Furthermore, as a sales and marketing agent for UNICOR, any economic interest RJH Supply may have in this procurement is too remote to meet the standard required by our Office for an interested party to a bid protest. In this regard, we have specifically concluded that sales agents, participating dealers, or similar representatives are not interested parties to protest on their own behalf simply because they would receive some economic benefit in the event a contract were awarded to its principal. See, e.g., *FitNet Purchasing Alliance*, B-406075, Feb. 3, 2012, 2012 CPD ¶ 64; *Bulloch International*, B-265982, Dec. 26, 1995, 96-1 CPD ¶ 5.

Here, any economic impact resulting from this procurement that arises from the contract between the protester and UNICOR is not the type of economic interest contemplated by our bid protest regulations. See *RJH Supply, LLC*, B-420998, Sept. 14, 2022, 2022 CPD ¶ 239 at 3 (concluding that the economic relationship between the sales and marketing agent RJH Supply and UNICOR is not the kind of direct economic interest contemplated by GAO’s regulations). Accordingly, the protester is not an interested party to pursue this protest.⁴

The protest is dismissed.

Edda Emmanuelli Perez
General Counsel

⁴ Our Office has other procedural concerns with the protest. For example, the protester’s primary argument--that GPO was required by the FAR to acquire the signage from UNICOR--is an untimely challenge to the terms of the solicitation, which the protester did not raise prior to the September 8 deadline for receipt of quotations. 4 C.F.R. § 21.2(a)(1). Additionally, to the extent the protester argues that GPO improperly excluded its quotation from consideration or that the protester was otherwise authorized to submit a quotation directly to NPS, the protest does not set forth a clear statement detailing how GPO’s actions were improper or otherwise in violation of any law, regulation, or the solicitation. Accordingly, this protest ground fails to state a valid basis of protest. 4 C.F.R. §§ 21.1(c)(4), (f).