

Vickers



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Syllor Inc./Ease Chemical

File: B-236161.2; B-236250.2; B-237657.2; B-238063;
B-238064; B-238065; B-238066; B-238067;
B-238068

Date: January 2, 1990

DIGEST

Protester is not an interested party to maintain protest since it would not be eligible to receive awards due to initiation of debarment proceedings.

DECISION

Syllor, Inc./Ease Chemical, a joint venture of Syllor, Inc. and Ease Chemical, protests any awards under solicitation Nos. DLA400-89-R-4347 and -0408 and DLA400-89-B-3103, -3747, -2007, -3502, -2744, -3104, and -0100 issued by the Defense Logistics Agency (DLA).

Syllor contends that DLA has deliberately delayed awards for almost 1 year under these solicitations in which Syllor was the low bidder or offeror while DLA conducted an investigation of the integrity of the protester. These actions, according to Syllor, have resulted in a de facto debarment without affording Syllor the opportunity to respond to the allegations now made by DLA in a proposal debarment.

By letter dated November 20, 1989, DLA notified Syllor that it had initiated debarment proceedings against Syllor. The letter advised Syllor that pending a decision on the debarment, no agency in the executive branch of the federal government would solicit offers from, award contracts to, renew or otherwise extend contracts with, or approve subcontracts with it unless the head of the agency taking the contracting action or a designee states in writing that there was a compelling reason to do so.

As DLA's letter indicates, a firm for which debarment has been initiated is precluded from receiving any contract awards pending a final debarment decision. Federal Acquisition Regulation (FAR) § 9.406-3(c)(7); Far West

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Meats, B-234642, Mar. 31, 1989, 89-1 CPD ¶ 350. A firm not eligible for award is not an interested party to maintain a protest under our Bid Protest Regulations, 4 C.F.R. 21.0(a) (1989). Inter-Continental Equip., Inc., B-230266.2, June 22, 1988, 88-1 CPD ¶ 598.

While the relief Syllor has requested in its protest is that no award be made pending the final determination on its debarment, the withholding of award and suspension of contract performance provisions of the Competition in Contracting Act of 1984, 31 U.S.C. § 3553(c) and (d) (Supp. IV 1986), only apply when a protest is properly before our Office. Since we find that Syllor's protests must be dismissed because it is not an interested party, such relief is not available. Moreover, to the extent that the protester is arguing that the proposed debarment should not encompass the solicitations protested, it is our view that this is a matter to be resolved by the agency during the debarment process. See FAR § 9.406.

The protests are dismissed.



Ronald Berger
Associate General Counsel