



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Bulloch International

File: B-265982

Date: December 26, 1995

John Hobbs for the protester.

Geoffrey D. Chun, Esq., Department of the Navy, for the agency.

Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

An authorized selling agent of a prospective offeror under a solicitation is not itself a prospective offeror and thus, where the agent files a protest of a solicitation on its own behalf, rather than on behalf of the prospective offeror, the agent is not an interested party to pursue the protest.

DECISION

Bulloch International protests request for proposals (RFP) No. N00189-95-R-0237, issued by the Navy anticipating a sole source award to Scott Aviation for self-contained breathing apparatus (SCBA) and accessories for use by the fire department at Naval Air Station, Sigonella, Italy. Bulloch alleges that the proposed sole source award is improper.

We dismiss the protest because the protester is not an interested party.

Bulloch filed this protest alleging that the agency's requirements could be satisfied by a number of manufacturers's SCBAs. Bulloch's protest did not represent that it was filed on behalf of any other firm.

As the protest developed, Bulloch was asked to identify the specific manufacturer's product which it would propose if the Navy removed the sole source restriction. Bulloch stated that it would propose SCBAs manufactured by Cairnsair, Division of Cairns Brothers, Inc. The Navy then alleged that Bulloch was not a regular dealer of Cairnsair SCBAs under the Walsh-Healy Public Contract Act, 41 U.S.C. § 35 *et. seq.*, and thus was not eligible for award under this RFP. The Navy requested dismissal of Bulloch's protest on the basis that Bulloch was not an interested party to protest the RFP. In response, Bulloch stated that it is an authorized selling agent for Cairnsair, which would be the entity that would actually

contract to supply the SCBAs, and it is therefore an interested party eligible to maintain this protest as Cairnsair's selling agent.

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 bidder or 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) (1995). Although an agent may represent an interested party in a protest where it files the protest on behalf of a specified interested party and has been authorized to act for that party, E&R, Inc., B-255868, Mar. 29, 1994, 94-1 CPD ¶ 218; Windet Hotel Corp., B-220987, Feb. 6, 1986, 86-1 CPD ¶ 138, the agent is not itself a prospective bidder or offeror and thus is not an interested party to protest on its own behalf. Priscidon Enters., Inc., B-220278, Nov. 13, 1985, 85-2 CPD ¶ 549.

As admitted by Bulloch, Bulloch itself would not be awarded the contract and thus it is not a prospective offeror. Although Bulloch has stated that it is an authorized selling agent for Cairnsair and has previously submitted an offer on behalf of that firm, it does not represent that this protest was filed on behalf of Cairnsair. Moreover, the record contains no evidence that Cairnsair has consented to Bulloch representing Cairnsair in this or any protest. Cf. E&R, Inc., *supra* (where the sales agent provided proof of authority to represent the protester when challenged). Since Bulloch is not a prospective offeror, nor is it protesting on behalf of a prospective offeror, Bulloch is not an interested party for the purposes of pursuing this protest. See N.F. Electronics Instruments, B-219661.2, Feb. 14, 1986, 86-1 CPD ¶ 161; Priscidon Enters., Inc., *supra*. Bulloch's alleged interest in receiving a contingent fee in the event Cairnsair is awarded a contract under this solicitation is not the type of direct economic interest that would qualify Bulloch as an interested party.

The protest is dismissed.

Comptroller General
of the United States