

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

SYSTEMS PRODUCTS, INC.)
) CAB No. P-88
Under IFB No. 8102-AA-75-0-8-GL)

For the protester: Amy Roberston Goldson, Esquire. For the Government: Howard S. Schwartz, Assistant Corporation Counsel.

Opinion by Administrative Judge Booker, with Administrative Judges Davis and Marlin concurring.

OPINION

On October 30, 1987, the Department of Administrative Services (DAS) issued Invitation for Bids No. 8102-AA-75-0-8-GL (IFB) in the sheltered market for paper and other stationary products. At the bid opening on December 16, 1987, four bids were received in response to the IFB, including those of Systems Products, Inc. (Systems) and Gray Paper Co. (Gray). Gray was found to be the apparent low bidder.

On February 7, 1988, Systems filed this protest with the Board¹ challenging DAS' consideration of Gray for contract award under the IFB because Gray is not eligible to bid on solicitations in the sheltered market. Systems alleges that: Gray does not own or lease a plant, warehouse, or office

¹This case originated during the period when the District of Columbia Contract Appeals Board was functioning pursuant to Commissioner's Order No. 9, D.C. Code, Supplement V (1987), as amended by Mayor's Order 86-65, 33 DCMR 3006 (May 16, 1986). Pursuant to the D.C. Procurement Practices Act of 1985 (Act), D.C. Code, sec. 1-1189.1 (1987 Replacement), a new independent agency denominated as the Contract Appeals Board was created. This new Board became operational on August 1, 1988, and succeeded to the jurisdiction of all cases before the previously established Board.

Case File

facility; it does not possess shipping and delivery capabilities; and it is "acting as a middleman between ineligible individual suppliers of paper." See the protest, page 2. Thus, Systems contends, Gray is not a qualified minority business enterprise to bid on this solicitation. Systems Products requests that the eligibility of Gray be thoroughly investigated, the contract award be delayed until Gray's eligibility as a minority business enterprise can be determined, and the contract be awarded to the lowest responsive and responsible bidder. Systems also requests that the Board award it bid preparation costs and attorney fees.

At the time this protest was filed no contract award had been made and the bids received in response to the solicitation, including those of both Gray and Systems, were being evaluated.²

In past decisions this Board has held that in order for a bidder to have a cognizable and viable protest such that the Board will have jurisdiction, the bidder must be aggrieved in connection with the solicitation or award of a contract. A bidder is aggrieved when it suffers a loss or injury or when a legal right it has is violated by the act complained of. See Protest of A.A. Beiro Construction Company, Inc., 1 P.D. 60 (D.C. CAB 1987); Protest of Emergency One, Inc., CAB No. P-114 (D.C. CAB November 2, 1988). Systems has failed to show that it is an aggrieved party. The mere submission of a nonresponsive bid by

²Since the filing of this protest, DAS has determined that Gray was in fact not a certified MBE at the time of bid opening. Accordingly, Gray's bid was rejected as nonresponsive.

Gray does not have an injurious impact on Systems or any other bidder. No official agency action adverse to Systems has been taken. Absent such an action, this protest is premature and speculative. Therefore, the Board lacks the requisite jurisdiction to hear and decide this protest on the merits.

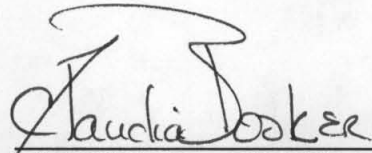
Accordingly, the protest is dismissed for lack of jurisdiction.

ORDER

This protest is denied.

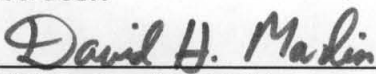
January 31, 1989

DATE

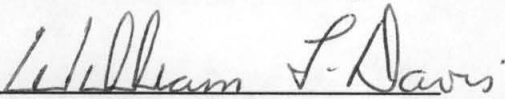


CLAUDIA D. BOOKER
Administrative Judge

CONCUR:



DAVID H. MARLIN
Administrative Judge



WILLIAM L. DAVIS
Chief Administrative Judge