

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

ABSTRACT, INC.)	
)	CAB No. P-608
Under Solicitation No. FA 20-06)	

For the Protester: William C. Rollings, *pro se*. For the Government: Howard Schwartz, Esq., and H. Christopher Malone, Esq., Assistants Corporation Counsel.

Opinion by Administrative Judge Jonathan D. Zischkau, with Chief Administrative Judge Lorilyn E. Simkins and Administrative Judge Phyllis W. Jackson, concurring.

OPINION

The Metropolitan Police Department (“MPD”) awarded a blanket purchase agreement (“BPA”) to Capital Services and Supplies to provide office supplies for MPD. After learning of the award on November 19, 1999, Abstract filed a protest on December 15, 1999, with the contracting officer, who transmitted the protest to the Board on January 3, 2000. Abstract argues that the solicitation for the BPA required that MPD award the BPA to the two lowest bidders, not simply to the lowest bidder. The District has moved to dismiss the protest on the ground that it was untimely filed and alternatively that the Board lacks jurisdiction because this particular MPD procurement is for combined purchases that do not exceed \$500,000 and are thus exempted under federal law from any procurement review required by the Procurement Practices Act. Abstract has not responded to the motion. We agree with the District that we lack jurisdiction to review MPD procurement actions carried out under its small purchase authority. Procurement review, including protests, for MPD small purchases is committed to MPD. Accordingly, we dismiss the protest for lack of jurisdiction.

BACKGROUND

On November 2, 1999, MPD solicited bids from four potential bidders for Blanket Purchase Agreement No. FA 20-06 for office products and supplies. (District’s Motion to Dismiss, Ex. 1). Under Part A (“Scope of Work”), there is a statement that the BPA “will be divided between two prospective contractors.” Part C (“Award of Agreement”) provides that the BPA will be “awarded to the company quoting the lowest net price after discounts have been applied. A secondary and third award to the next lowest contractor, price and discount, may be considered.” (*Id.*).¹ Between November 2 and 9, 1999, MPD received quotes from four bidders, with the lowest bid (considering price and discounts) coming from Capital Services and Supplies. (*Id.* Exs. 3-4).

¹ These provisions, considered together, indicate that the BPA could be awarded to more than a single contractor, but do not *require* more than a single awardee.

On November 19, 1999, MPD awarded the BPA to Capital in the not-to-exceed amount of \$266,580. (*Id.* Ex. 5). A representative from Abstract called the MPD contract specialist on November 19, 1999, and was informed that an award had been made to another contractor. (Protest). On December 15, 1999, the MPD contracting officer received a letter from Abstract protesting the award to a single contractor. The contracting officer transmitted the protest to the Board and it was docketed on January 3, 2000. The District filed its motion to dismiss on January 24, 2000. Abstract has not responded.

DISCUSSION

The District of Columbia Appropriations Act for Fiscal Year 1999 and for Fiscal Year 2000 exempts MPD small purchases, defined as those that do not exceed \$500,000, from procurement review processes such as protests authorized by the Procurement Practices Act. The federal legislation provides in relevant part:

Provided further, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: Provided further, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000

Pub. L. No. 105-277, 112 Stat. 2681-127 (1998); Pub. L. No. 106-113, 113 Stat. 1501, 1506 (1999).

Because the BPA awarded to Capital involved purchases not exceeding \$500,000, MPD's award action is not subject to a protest before the Board. *See, e.g., Ram Mobile Data, L.P.*, CAB No. P-509, Dec. 31, 1997, 45 D.C. Reg. 8692, 8693. Accordingly, we dismiss Abstract's protest for lack of jurisdiction.

DATED: March 9, 2000

/s/
JONATHAN D. ZISCHKAU
Administrative Judge

CONCURRING:

/s/
LORILYN E. SIMKINS
Chief Administrative Judge

/s/
PHYLLIS W. JACKSON
Administrative Judge