

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
**CONTRACT APPEALS BOARD**

PROTEST OF:

PETERSEN MFG. CO., INC.	)	
	)	CAB No. P-0728
Under IFB No. POKT-2006-B-0018-CM	)	

For the Protester, Petersen Mfg. Co., Inc.: Michael Siemer, Vice President. For the Government: Howard S. Schwartz, Esq., and Talia S. Cohen, Esq., Assistant Attorneys General, District of Columbia Government.

Opinion by Administrative Judge Warren J. Nash, with Chief Administrative Judge Jonathan D. Zischkau, concurring.

**OPINION**

*(Lexis-Nexis Filing ID 11825818)*

By letter to the Board dated March 16, 2006, protester Petersen Mfg. Co., Inc. (“Petersen”) protests the responsiveness of the Victor Stanley, Inc. (“Victor Stanley”) bid, submitted to the District of Columbia on March 10, 2006. The District filed a Motion to Dismiss the protest, asserting that the protest is premature because the District had not yet determined whether any of the bidders had submitted a responsive bid. The Board agrees and dismisses the protest.

**FACTS**

On January 26, 2006, the Office of Contracting and Procurement (“OCP”) issued IFB No. POKT-2006-B-0018-CM for purchase of trash receptacles and liners. (Motion to Dismiss, Ex. 1). Bids were originally due on February 28, 2006. (Motion to Dismiss, Ex. 1). After amendment, bids were opened on March 10, 2006. (Motion to Dismiss, Ex. 1). Three bidders, including protester, submitted bids. (Motion to Dismiss, Ex. 5). The protester’s bid was the highest of the three bids. (Motion to Dismiss, Ex. 5). The protest was filed at the Board on March 21, 2006.

**DISCUSSION**

In its April 10, 2006, Motion to Dismiss, the District asserts that the Board should dismiss the protest because the District has not yet awarded a contract, nor has the District determined whether any of the bidders submitted responsive bids. In support of that argument, the District cites *Consolidated Waste Industries*, CAB No. P-0430, June 12, 1995, 42 D.C. Reg. 4983. In *Consolidated*, the Board found premature a protest where OCP had neither completed its determination nor awarded a contract. In this protest, OCP has not yet made its evaluation or

determination. Thus, in keeping with precedent, and in view of the lengthy delay by OCP in completing the procurement, the Board believes the proper action is to dismiss the protest as premature, without prejudice to Petersen to file a new protest if it is aggrieved by subsequent actions of OCP.

The protest is dismissed as premature.

DATE: July 18, 2006

/s/ Warren J. Nash  
WARREN J. NASH  
Administrative Judge

CONCURRING:

/s/ Jonathan D. Zischkau  
JONATHAN D. ZISCHKAU  
Chief Administrative Judge