

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

PROTEST OF:

IMPEX INTERNATIONAL INDUSTRIES, INC.)	
)	CAB No. P-146
Under IFB No. 9081-AA-99-0-9-RS)	

For the Protester: Tao. Eniola, President. For the District of Columbia: Lorilyn E. Simkins, Assistant Corporation Counsel, D.C.

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

BACKGROUND

On November 18, 1988, the District's Department of Administrative Services (DAS) issued the above-referenced Invitation for Bids (IFB) in the sheltered market in order to obtain tree trimming services. The bids were opened on December 20, 1988. DAS received three bids, including a bid from Impex International Industries, Inc. (Impex), the protester. Agency Report at 1 and Attachment 3.

On or about December 20, 1988, Impex was notified by DAS that its bid had been rejected as nonresponsive because it was not certified as a minority business by the District agency responsible for such a determination, the Minority Business Opportunity Commission (MBOC). Id. at 2 and Attachment 1.

In its letter of protest, filed with the Board on December 23, 1988, Impex admits that it was not a certified minority business enterprise (MBE) at the time of bid opening.

Impex asserts, however, that its lack of certification as an MBE is the fault of the District and it should not be penalized by having its bid deemed nonresponsive. Impex claims that it filed an application for certification on November 9, 1988 but the MBOC misplaced the documents, thereby preventing certification in time for the bid opening on December 20, 1988. Impex further asserts that it is a minority owned and operated business in Maryland and Delaware. See protest letter, infra.

OPINION

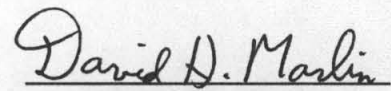
The fact that Impex was not certified as a MBE by the MBOC at the time the bids were opened on December 20, 1988, deprives the Board of jurisdiction to consider this protest.

Under District law, the MBOC issues certificates of registration to qualifying business firms who apply for eligibility for sheltered market procurements. Minority Contracting Act of 1976, D.C. Code, § 1-1148 (1987). We have ruled that the MBOC has exclusive authority to certify minority business enterprises and that the Board does not have jurisdiction to hear challenges to the certification process. Southern International Corporation (D.C. CAB, February 27, 1987).

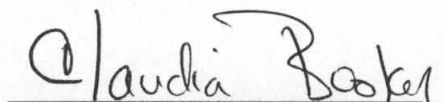
The certification of Impex as a minority firm in Maryland and Delaware does not provide eligibility in the District. Only certification in the District of Columbia establishes a business as an MBE with the right to compete for District government procurements. See Aceves Construction Maintenance Company (D.C. CAB, March 10, 1987).^{1/}

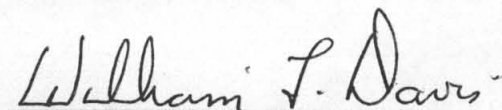
It is ORDERED that the protest be dismissed for lack of jurisdiction.

DATE: June 14, 1989


DAVID H. MARLIN
Administrative Judge

CONCUR:


CLAUDIA D. BOOKER
Administrative Judge


WILLIAM L. DAVIS
Chief Administrative Judge

^{1/}The disposition of this case on jurisdictional grounds makes it unnecessary to consider the merits of the protest.