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Accountability * Integrity * Reliability

Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Triton Electronic Enterprises, Inc.

File: B-294221; B-294248; B-294249

Date: July 9, 2004

Debe Sharp, Triton Electronic Enterprises, Inc., for the protester.
Lori S. Chofnas, Esq., Department of the Navy; Glynis L. Bell, Esq., General Services Administration; and Robert E. Sebold, Esq., Defense Logistics Agency, for the agencies.

Katherine I. Riback, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

General Accounting Office, under its bid protest function, does not review protests that an agency improperly proposed a contractor for debarment, as the contracting agency is the appropriate forum for suspension and debarment disputes.

DECISION

Triton Electronic Enterprises, Inc. protests the failure of the General Services Administration, the Defense Logistics Agency, and the Department of the Navy to set aside certain procurements under the Small Business Administration's 8(a) contracting program. 15 U.S.C. § 637(a) (2000).

We dismiss the protest on the basis that Triton is a proposed debarred contractor, and thus is not an interested party to challenge a procurement decision.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (2000), 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. Bid Protest Regulations, 4 C.F.R. § 21.0(a) (2004). Since a proposed debarred contractor generally is not eligible for the award of a federal contract, Federal Acquisition Regulation § 9.405(a), such a protester would not be in line for contract award even if its protest were sustained. *See Pacrak, Inc.*, B-236798, Nov. 7, 1989, 89-2 CPD ¶ 442 at 1. Therefore, we will not consider a protest from a proposed debarred bidder or offeror.

Further, to the extent that Triton challenges the proposed debarment, we note that the General Accounting Office will not review a protest that an agency improperly proposed a contractor for debarment, as the contracting agency is the appropriate forum for debarment disputes. See Shinwha Electronics, B-290603 et al., Sept. 3, 2002, 2002 CPD ¶ 154 at 5.

In the event that the proposed debarment is lifted, and Triton again becomes eligible for award, Triton may request that its protest files be reopened, provided such request is made in a timely fashion. Meyer and Lillian Blinder-Recon., B-238783.2, June 26, 1990, 90-1 CPD ¶ 594 at 1.

Anthony H. Gamboa
General Counsel