



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

November 14, 2013

Sent Via Facsimile and Electronic Mail

[REDACTED]

West Chester, PA 19380

Fax: [REDACTED]

RE: HUBZone Protest for Solicitation No. [REDACTED]

Dear Ms. [REDACTED]:

This office is in receipt of a HUBZone status protest filed by your firm on behalf of [REDACTED] concerning the HUBZone status of [REDACTED] for the above-referenced solicitation. In addition, I am in receipt of the contracting officer's referral letter and the information relating to the acquisition, as required by 13 C.F.R. § 126.801(e). I am dismissing the protest of [REDACTED] concerning the HUBZone status of [REDACTED] for the above-referenced Solicitation. The following sets forth the bases for my decision:

The pertinent U.S. Small Business Administration (SBA) regulations provide that "[f]or negotiated acquisitions, an interested party must submit its protest by close of business on the fifth business day after notification by the contracting officer of the apparent successful offeror." 13 C.F.R. § 126.801(d)(1). The regulations define an interested party as "any concern that submits an offer for a specific HUBZone sole source or set-aside contract...the contracting activity's contracting officer, or SBA." *Id.* § 126.103. Any protest submitted after the time limit is untimely, unless the protest is from the SBA or a contracting officer. *Id.* § 126.801(d)(3).

The U.S. Department of the Army ("Army") issued the solicitation at issue in this protest as a negotiated procurement set aside for HUBZone small business concerns ("SBCs"). The contracting officer has informed SBA that [REDACTED] submitted an offer in response to the solicitation. Thus, [REDACTED] is an interested party.

In addition, the Army notified [REDACTED] that [REDACTED] is the apparent successful offeror on November 4, 2013. [REDACTED] submitted its protest to the contracting officer on November 4, 2013. Therefore, [REDACTED] as an interested party, submitted its protest on time because it submitted the protest within five business days after notification by the contracting officer of the apparent

Finally, [REDACTED] alleges that [REDACTED] is not registered under the E-Verify program as a 'Federal Contractor' and therefore is ineligible for award under this contract." As noted above, SBA's regulations provide that the D/HUB will review only protests challenging "whether the concern meets the HUBZone qualifying requirements set forth in § 126.200." 13 C.F.R. § 126.801(a). Because 13 C.F.R. § 126.200 sets forth no HUBZone eligibility criteria requiring a firm to be registered under the Department of Homeland Security's E-Verify program, I find this protest allegation insufficiently specific as to a HUBZone eligibility criteria. Therefore, I am dismissing this protest allegation.

Appeal Rights

[REDACTED] or the contracting officer may appeal this decision pursuant to 13 C.F.R. § 126.805. All appeals must be made to the Associate Administrator for Government Contracting and Business Development (AA/GC&BD) within five business days from receipt of this letter. The appeal may be sent by facsimile, express delivery service, or U.S. mail (postmarked within the applicable time period), or via hand delivery. The AA/GC&BD may be reached at the U.S. Small Business Administration, 409 3rd Street, SW, Suite 8000, Washington, DC 20416, or by facsimile at (202) 205-5206. SBA will dismiss any appeal received after the five-day period. Pursuant to 13 C.F.R. § 126.805(d), the party bringing the appeal must provide a notice of the appeal to the contacting activity contracting officer and the protested concern. I have attached a copy of the appeal procedures.

Release of Decision

The SBA intends to make its HUBZone status protest and appeal decisions available to the public by posting them on its website at www.sba.gov/hubzone. As we noted in our initial letter, the Freedom of Information Act (FOIA), 5 U.S.C. § 552, requires the government to disclose records in its possession unless the information falls under one of the nine-enumerated exemptions, including that the information is a trade secret or is privileged or confidential commercial or financial information (5 U.S.C. § 552(b)(4)), or that the disclosure of the information would constitute an unwarranted invasion of individual privacy (5 U.S.C. § 552(b)(6)). We also explained in our initial letter that we will release in the protest decision the total number of employees of the protested concern, the total number of employees that are HUBZone residents, as well as the number of employees that work at a business' different offices.

If you believe your small business has been the subject of excessive or unfair regulatory enforcement or compliance actions as a result of this decision, you have the right under the Small Business Regulatory Enforcement Fairness Act to file a complaint or comment with SBA's National Ombudsman at:

Office of the National Ombudsman
U.S. Small Business Administration
409 Third St. SW
Washington, DC 20416
PH: 1-888-734-3247
FX: 1-202-481-5719
EM: ombudsman@sba.gov

The right to file a complaint or comment with SBA's National Ombudsman is independent of any other rights you may have to contest this decision. The National Ombudsman may not change, stop, or delay a Federal agency's enforcement action or impede any administrative or criminal process.

Thank you for your cooperation with this matter. If you have any questions, please contact me at hzprotests@sba.gov.

Sincerely,

Mariana Pardo
Director, HUBZone Program

cc:

[REDACTED]
Contracting Officer
Fax: [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
Fax: [REDACTED]
[REDACTED]