



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

December 12, 2013

Sent Via Facsimile and Electronic Mail

[REDACTED]
[REDACTED]

Jacksonville, FL 32204

Fax: [REDACTED]
[REDACTED]

RE: HUBZone Protest for Solicitation No. [REDACTED]

Dear Mr. [REDACTED]

This letter is to notify you that I am dismissing the protest of [REDACTED] concerning the HUBZone status of [REDACTED] for the above-referenced Solicitation.

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). Any protest submitted after the time limit is untimely, unless the protest is from the SBA or a contracting officer. Id. § 126.801(d)(4). The regulations define an interested party as “any concern that submits an offer for a specific HUBZone sole source or set-aside contract, [and] any concern that submitted an offer in full and open competition and its opportunity for award will be affected by a price evaluation preference given a qualified HUBZone SBC....” Id. § 126.103.

The U.S. Department of Homeland Security 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, U.S. Department of Homeland Security notified [REDACTED] that [REDACTED] was the apparent successful offeror on December 5, 2013. [REDACTED] submitted its protest to the contracting officer on December 5, 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 successful offeror.

However, the HUBZone regulations also provide that a HUBZone protest must “state all specific grounds for the protest. A protest merely asserting that the protested concern is not a qualified HUBZone SBC, without setting forth specific facts or allegations, is insufficient.”

13 C.F.R. § 126.801(b); see also *id.* § 126.803(a)(2) (a HUBZone protest must be “sufficiently specific”). If SBA determines that a protest is not specific, it will dismiss the protest. *Id.* § 126.804.

█’s protest states, in its entirety:

This response is to challenge, █ the apparently successful offeror of the above solicitation in the following areas:

- Yearly work revenue exceeds SBA minimum of \$33.5 million
- Hiring minimum limits 35% HUBZone Employee Participation not met
- SBA employee size standards

█’s protest sets forth no specific facts or documentation to support these claims. Accordingly, I find these protest allegations insufficiently specific as to a HUBZone eligibility criterion. Therefore, I am dismissing the protest.

Appeal Rights

The protester, protested concern, or the contracting officer may appeal this decision dismissing this protest allegation pursuant to 13 C.F.R. § 126.805. All appeals must be made to the Associate Deputy Administrator for Government Contracting and Business Development (ADA/GC&BD) within five business days from receipt of the letter. The appeal may be sent by facsimile, express delivery service, or U.S. mail (postmarked within the applicable period), or via hand delivery. The ADA/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 contracting activity contracting officer or the protested concern, whichever applies. I have attached a copy of the appeal procedures.

Release of Decision

Please be advised that 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. Therefore, the information you provide in response to this protest may be discussed in the SBA’s final decision and available for public review. In addition, the information you provide may be subject to a Freedom of Information Act (FOIA), 5 U.S.C. § 552, request. FOIA requires the government to disclose records in its possession when requested in writing by a member of the public, 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)).¹

Consistent with FOIA and its exemptions, SBA will not publicly release in its protest determination or any appeal decision the names, home addresses, or specific work schedules of

¹ Further information on how FOIA is administered at SBA is available at <http://www.sba.gov/about-sba-services/foia>.

individual employees.² However, if you submit any other information that you believe should be protected from public disclosure under the FOIA exemptions, please designate that information as “Confidential” clearly and prominently in your response. If SBA receives a FOIA request for this information, we will consider your designations of confidential information and will provide you with pre-disclosure notification should we deem the information releasable. SBA will also consider these designations before publishing these decisions on its website.

Small Business Regulatory Enforcement Fairness Act

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:


Contracting Officer
Fax: 


² However, the SBA does release in its protest decisions 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.

