

DOCUMENT RESUME

03015 - [A2093189]

[Reconsideration of Claim of a Potential Employee of a Disappointed Offeror]. B-198832; B-188846. July 26, 1977. 2 pp.

Decision re: John S. Connolly; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of the Air Force; University of Texas: Health Science Center.

Authority: 4 C.F.R. 20.1(a). B-186502 (1976). B-184852 (1975). E-186495 (1976).

A potential employee of a bidder on an Air Force contract protested the award of the contract to another offeror. That the protester might be a potential employee of the offeror if awarded the contract was insufficient reason to regard the protester as an interested party. GAO will not consider protests filed by a potential employee of a disappointed bidder or offeror where the bidder or offeror itself does not protest. The protest that the contractor was not performing involved a matter of contract administration, which is the responsibility of the procuring activity. (Author/SC)

*Koylakowski  
P.L. #1*

3/89

03015



**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

FILE: B-188832  
E-188846

DATE: July 26, 1977

MATTER OF: John S. Connolly, Ph.D. - Reconsideration

**DIGEST:**

1. Fact that protester may be a potential employee of offeror if awarded contract is insufficient reason to regard protester as "interested party."
2. GAO will not consider protests filed by potential employee of disappointed bidder or offeror where bidder or offeror itself does not protest.
3. Protest that contractor is not performing involves matter of contract administration which is responsibility of procuring activity.

John S. Connolly, Ph.D., has requested reconsideration of our decision of May 23, 1977, which declined to consider a protest filed by him where the offeror itself did not protest.

Dr. Connolly, as a potential employee of the University of Texas Health Science Center (UTHSC) which submitted a proposal, protested the Department of the Air Force's award of a contract to another offeror. In his protest, Dr. Connolly did not represent UTHSC. Accordingly, we decided that Dr. Connolly did not meet the requirement that a party be "interested," in order that the protest might be considered. 4 C.F.R. § 20.1(a) (1977); see A. Kenneth Bernier and C. J. Willis, B-186502, July 19, 1976, 76-2 CPD 56.

The reason we decline to consider protests filed by individual employees is the requirement that a protester be sufficiently affected by the procurement. In this regard, we have held that a private individual who did not represent any concern which might have participated

B-188832  
B-188846

in the procurement, but who asserted "the assumed 'right of any citizen' to lodge a formal protest" with this Office, did not qualify as an "interested party" as contemplated by section 20.1(a). Kenneth R. Blend, Consultant, B-184852, October 17, 1975, 75-2 CPD 242. Further, we have decided that a private individual's assertions that his wife's duties and income will be adversely affected by an award is not sufficient reason to regard the protester as an "interested party." A. Kenneth Bernier, supra.

In our decision of May 23, 1977, we indicated that we would not consider protests filed by individual (or potential) employees of disappointed bidders or offerors since no useful purpose would be served by our consideration of the matter where the bidder or offeror itself does not protest. Contrary to Dr. Connolly's statement, this was not a "new policy." See A. Kenneth Bernier, supra. We are still of the same opinion expressed in the May 23 decision particularly since UTHSC has stated that it "in no way intends to protest the award" and that if the previous contract award is disturbed, it would wish to reconsider its previous proposal as it may no longer be in a position to perform the work originally requested. While we realize that individuals may be deeply concerned about the outcome of a procurement, these persons may not necessarily be "interested parties" eligible to protest to our Office within the purview of section 20.1(a).

Moreover, contrary to the contention made, the decision does not condone improper or illegal awards. In that connection, we have recognized that "To raise a legal objection to the award of a Government contract is a serious matter." Service Distributors, Inc. (Reconsideration), B-186495, August 10, 1976, 76-2 CPD 149. To that end, the Bid Protest Procedures are intended to operate as an effective and equitable standard to provide for expeditious consideration of objections to procurement actions and to effect meaningful relief. Where the rejected offeror is not contending for the award, meaningful relief is not possible.

With regard to the allegation concerning the absence of performance by the contractor, such question is a matter of contract administration which is the responsibility of the procuring activity.

Accordingly, the decision of May 23 is affirmed.

*R. J. K. + 12*  
Deputy Comptroller General  
of the United States