

DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD

PROTEST OF:)
)
MEDSTAR FAMILY CHOICE, INC. D/B/A)
MEDSTAR FAMILY CHOICE-DISTRICT) CAB No. P-1165
OF COLUMBIA)
)
Under Solicitation No. Doc578403)

MOTION TO INTERVENE

AmeriHealth Caritas District of Columbia, Inc. (“ACDC”),¹ by and through undersigned counsel, respectfully submits this motion to intervene in the above-captioned protest. ACDC is an offeror under the Solicitation No. Doc578403 (“RFP”) for Medicaid Managed Care Program services.² Under the facts explained below and the CAB’s rules and precedent, ACDC satisfies the definition of an intervenor – and has a substantial prospect of receiving an award if the protest is denied. Accordingly, this motion to intervene should be granted.

Pursuant to CAB Rule 110.1, ACDC sought the consent of each party to the protest (“affected part[y]”) regarding this motion. Counsel for the District of Columbia Office of Contracting and Procurement and the D.C. Department of Health Care Finance (collectively, the “District”) stated that the District takes no position with

¹ ACDC’s business address is AmeriHealth Caritas District of Columbia, Inc., 1250 Maryland Avenue, SW, Suite 500, Washington, DC 20024.

² In February 2022, the Department issued a supplemental RFP, No. Doc598380, with respect to the same services addressed in RFP No. Doc578403, allowing offerors to “respond to both solicitations,” though an offeror can only be awarded an MCO contract under one of the RFPs. The CAB has considered all of the protests related to the Medicaid Managed Care Program services at issue under RFP No. Doc578403.

respect to ACDC's motion. Protester, MedStar Family Choice, Inc. D/B/A MedStar Family Choice–District of Columbia (“MedStar”) does not oppose ACDC's motion. Similarly, intervenor, Amerigroup District of Columbia, Inc. (“Amerigroup”) does not object to this motion.

I. ACDC Satisfies the CAB's Requirements for Intervention

The relevant CAB Rule, *i.e.*, 199.1, defines “intervenor” as “an awardee if the contract has been awarded, or, *if no award has been made*, all *bidders or offerors who appear to have a substantial prospect of receiving an award if the protest is denied.*” (Emphasis added). There has not yet been an award in the subject procurement; ACDC should be allowed to intervene because it has a “substantial prospect of receiving an award if the protest is denied.”

The District intends to award up to three managed care organizations to provide healthcare, behavioral health services, and pharmacy services for the District's Medicaid Managed Care Program. *See* RFP § B.2.1 at 2; P-1153, Public Opinion in *MedStar* Protest at 1 (June 2, 2022). ACDC is one of four offerors that submitted proposals as a prime contractor to provide services for the District's Medicaid Managed Care Program under the RFP. *See* P-1152, Public Opinion in *Amerigroup* Protest at 5. (The other offerors were MedStar, Amerigroup, and Trusted Health Plan (District of Columbia), Inc., d/b/a CareFirst BlueCross BlueShield Community Health Plan District of Columbia (“CareFirst”).)

Based on the District's analysis of the offerors' proposals, ACDC's proposal was accepted by the District. The three other proposals were rejected because of failures to

submit proposed subcontracting plans that were compliant with the RFP. Amerigroup, CareFirst, and MedStar filed separate pre-award protests challenging the District's rejection of their proposals. CAB Dkt. Nos. 1152, 1153, 1154.

With respect to Amerigroup's pre-award protest, the CAB ruled that "the District improperly rejected Amerigroup's proposal as non-responsive." P-1152 Public Opinion in *Amerigroup* Protest at 14 (June 3, 2022). As a result, the CAB sustained Amerigroup's pre-award protest and ordered that the District's rejection of Amerigroup's proposal be rescinded – and that Amerigroup's proposal be fully evaluated in the procurement.

In contrast, the CAB found that the District "did not err" when it rejected MedStar's and CareFirst's proposals. P-1153 Public Opinion in *MedStar* Protest at 5-10 (June 2, 2022); P-1154 Public Opinion in *CareFirst* Protest at 9 (May 12, 2022). As a result, MedStar's and CareFirst's protests were denied and dismissed, and those offerors are no longer part of the procurement under the RFP.

In sum, ACDC is one of two remaining offerors in a procurement in which a minimum of two offerors will be selected. In similar circumstances, the CAB has ruled that the remaining offeror "appears to have a substantial prospect of receiving the award, and satisfies the definition of an intervenor under our rules." *Conduent State Healthcare LLC*, P-1160 (May 24, 2022); see P-1162, Public Opinion in *CareFirst* Granting Amerigroup's Intervention Motion (July 15, 2022).

II. Conclusion

For the reasons explained above, ACDC is in line for award as one of the two remaining offerors under the RFP. Under the CAB's Rules and precedent, this motion to intervene should be granted.

Respectfully submitted,

/s/ Marcia G. Madsen

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[PROPOSED] ORDER

Upon consideration of AmeriHealth Caritas District of Columbia, Inc.'s ("ACDC") motion to intervene in the bid protest filed by MedStar Family Choice, Inc. D/B/A MedStar Family Choice-District of Columbia, it is, on this ____ day of July 2022, hereby

ORDERED that ACDC's motion to intervene is GRANTED, and ACDC is entitled to participate fully in this matter.

SO ORDERED.

Administrative Judge