



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR LACK OF JURISDICTION: May 15, 2020

CBCA 6806

MAVIGA N.A. INC.,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Donald J. Driscoll, Director and Officer of Maviga N.A. Inc., Spokane, WA, appearing for Appellant.

Azine Farzami, Office of the General Counsel, Department of Agriculture, Washington, DC, counsel for Respondent.

Before Board Judges **BEARDSLEY**, **VERGILIO**, and **SHERIDAN**.

VERGILIO, Board Judge.

Maviga N.A. Inc. (Maviga) has filed an appeal contesting the determination of the Department of Agriculture to award a contract to other than Maviga in response to a solicitation. Maviga acknowledges that, as an unsuccessful bidder, it lacks a contract with the Government regarding this matter. The parties have had an opportunity to comment on jurisdiction.

Maviga is not a contractor under the definition in the Contract Disputes Act, 41 U.S.C. § 7101(7) (2018) (“The term ‘contractor’ means a party to a Federal Government contract other than the Federal Government.”). Jurisdiction is conferred by statute. That jurisdiction

does not include authority to resolve this case brought by an unsuccessful bidder, an entity other than a contractor. 41 U.S.C. §§ 7102(a), 7105(e)(1)(b); *Coastal Corp. v. United States*, 713 F.2d 728 (Fed. Cir. 1983). Neither a contracting officer (by issuing a protest decision that identifies the Board as the forum to hear an appeal of that determination) nor an unsuccessful bidder (by requesting that the Board resolve the dispute) can confer jurisdiction upon this Board.

Decision

The case is **DISMISSED FOR LACK OF JURISDICTION.**

Joseph A. Vergilio
JOSEPH A. VERGILIO
Board Judge

We concur:

Erica S. Beardsley
ERICA S. BEARDSLEY
Board Judge

Patricia J. Sheridan
PATRICIA J. SHERIDAN
Board Judge