



*of Okla. v. United States*, 69 Fed. Cl. 148, 152 (2005) citing *Am. Mar. Transp., Inc. v. United States*, 870 F.2d 1559, 1561 (Fed. Cir. 1989) . Further, under RCFC 24, intervention is authorized where the applicant has an interest relating to the subject of the action and is so situated that disposition of the action may impair or impede its ability to protect that interest. RCFC 24. Such intervention of right is mandated when the applicant’s interests are not adequately represented by the existing parties to the litigation. *Id.* StorageTek asserts that its interests and the Government’s interests do not completely coincide. As a result, StorageTek argues that there is a likelihood that its interests may not be adequately protected by the Government. The Court agrees. The issue before the Court has a direct affect on StorageTek. StorageTek’s approach to the underlying substance of the contract may not be adequately articulated by the Government, making intervention appropriate.

Furthermore, in bid protest cases, this Court’s jurisdiction is based on having “a direct economic interest.” Under the Administrative Disputes Resolution Act of 1996 (“ADRA”), standing is limited to parties “whose direct economic interest would be affected by the award of the contract or by failure to award the contract.” *Myers Investigative & Sec. Serv., Inc. v. United States*, 275 F.3d 1366, 1370 (Fed. Cir. 2002); 31 U.S.C. § 3551(2)(A)(2002). Under ADRA, interested parties have been granted a legally protected interest in solicitations and contract awards. “Interested party” has been defined in bid protest cases as one whose “direct economic interest” is affected. *Banknote Corp. of Am. Inc. v. United States*, 365 F.3d 1345, 1351-52 (Fed. Cir. 2004); 31 U.S.C. § 3551(2)(A)(2002). Here, StorageTek is an interested party and has a legally protected interest in this solicitation as well as a direct and immediate interest. The RFQ terms challenged by CHE require each contractor to provide support from the original OEM when the contractor is unable to return equipment to service within four hours by the contractor’s own efforts. CHE is seeking to eliminate this provision. If CHE prevails, the contract provisions, which directly benefit StorageTek, will be removed. Therefore, the Court finds that StorageTek is an interested party as well as having a direct and immediate interest. This is also consistent with government procurement competition policy which seeks to discourage unique specifications that tend to limit competition.

Thus, for the reasons set forth above, the Court **GRANTS** StorageTek’s Motion to Intervene in this matter. The caption shall be amended to add Storage Technology, Inc. as Intervenor.

**It is so ORDERED.**

s/ Loren A. Smith  
LOREN A. SMITH,  
SENIOR JUDGE