



Comptroller General
of the United States
Washington, D.C. 20548

Becker

Decision

Matter of: Environmental Health Sciences, Inc.

File: B-270815

Date: December 29, 1995

DECISION

Environmental Health Sciences, Inc. protests any award of a contract under solicitation No. W463046-SJ by Westinghouse Hanford, a prime contractor awarded a contract by the Department of Energy.

Protests filed on or after October 1, 1995, are subject to our revised Bid Protest Regulations. See 60 Fed. Reg. 40,737 (Aug. 10, 1995) (to be codified at 4 C.F.R. Part 21). Pursuant to those Regulations, we review subcontract awards protests only where we are requested in writing by the federal agency involved to do so. See 60 Fed. Reg. *supra* (to be codified at 4 C.F.R. § 21.5(h))¹. Since, the federal agency involved here has not requested our review, we decline to do so.

The protest is dismissed.

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¹Prior to the effective date of our new Regulations, we had traditionally reviewed procurements by prime contractors operating and managing government facilities. See, e.g., Maxwell Labs., Inc., B-253737, Oct. 19, 1993, 93-2 CPD ¶ 239; United Tele. Co. of the NW, B-246977, Apr. 20, 1992, 92-1 CPD ¶ 374, *aff'd*, Dept. of Energy -Recon., B-246977.2 *et al.*, July 14, 1992, 92-2 CPD ¶ 20. This review role was called into question by U.S. West Comms. Servs., Inc. v. United States, 940 F.2d 622 (Fed. Cir. 1991), which held that under the Competition in Contracting Act of 1984, the General Services Administration Board of Contract Appeals does not have jurisdiction over protests of subcontract awards. Construing statutory language basically identical to that applicable to the General Accounting Office, the court held that the Board was not empowered to hear a protest of a procurement conducted by an M&O contractor because the procurement was not a federal agency procurement. See Geo-Centers, Inc., B-261716, June 29, 1995, 95-2 CPD ¶ 69.

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