

DECISION

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

FILE: B-183145

DATE: February 25, 1975

MATTER OF: Dun-Well Janitorial Co., Inc.

DIGEST:

Protest by contractor regarding termination for default and later assessment of excess costs of reprocurement are matters for resolution by the contracting parties and are not for consideration by GAO.

Dun-Well Janitorial Co., Inc. (Dun-Well), has protested to our Office the determination of the Department of the Army to terminate its contract for default and the Army's subsequent assessment of excess costs against Dun-Well as a result of the repurchase contract.

Contract No. DABT23-74-C-0813 was awarded to Dun-Well on July 6, 1974, by the Department of the Army for furnishing custodial services at Bowman Field, Louisville, Kentucky, from July 1, 1974, through June 30, 1975. By letter dated September 27, 1974, the Army advised Dun-Well that its contract was being terminated for default effective on September 30, 1974. Thereafter, the Army awarded a repurchase contract to another firm for the remaining contract period and assessed the excess costs against Dun-Well. By letter dated January 30, 1975, with enclosures, Dun-Well has protested the default termination and subsequent assessment of excess costs.

With regard to the issues surrounding the termination for default, which Dun-Well protests, our Office has held that the propriety of a default termination must be resolved by the contracting parties pursuant to any applicable contract provision and is not a proper matter for protest to our Office. See Matter of Ampex Corporation, 53 Comp. Gen. 572 (1974). Further, any questions Dun-Well may have regarding the assessment of excess costs of reprocurement, following its default, are matters for resolution, in the first instance, with the procuring activity and not with the GAO. If Dun-Well disagrees with the validity of the assessment of excess costs against its firm, an appeal can be taken to the Armed Services Board of Contract Appeals.

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Accordingly, we are unable to take any action on this protest and we are closing our file on the matter.

Deputy

ATK
Comptroller General
of the United States