

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

50904

FILE: B-183420

DATE: July 15, 1975

MATTER OF: Allied Research Associates, Inc.

97379

DIGEST:

1. Default termination is matter for ASBCA.
2. Protest by defaulted contractor against agency procedures in conducting reprocurment will not be considered since statutes governing procurements by Government are not applicable to reprocurments.
3. Where defaulted contractor offers price on reprocurment higher than price on defaulted contract, offer may not be accepted, since acceptance would be tantamount to modification of defaulted contract for increased price without consideration to Government.
4. Question whether contracting officer acted in reasonable manner in accepting price on reprocurment almost double that quoted by defaulted contractor is matter for resolution under Disputes clause of defaulted contract.

Allied Research Associates, Inc. (ARA), protests on three grounds the award by the United States Army Electronics Command (ECOM) of contract No. DAAB07-75-C-0834 to Airborne Instruments Laboratory Division, Cutler-Hammer Incorporated, for AN/PPS-5A radar sets and associated items: (1) ECOM deliberately prevented ARA from receiving the award by default termination under prior contract DAAB05-73-C-1001; (2) relatively simple technical reasons were used to disqualify ARA from obtaining the contract when these deficiencies could have been resolved easily in negotiations; and (3) award was made without competitive negotiation at a price almost double that quoted by ARA.

Contract -0834 is a result of request for proposals DAAB07-75-R-0777, which was occasioned by the default termination of contract No. DAAB05-73-C-1001 with ARA by ECOM. As a result of ECOM's action, ARA, on July 25, 1974, filed its appeal of the contracting officer's decision, pursuant to the Disputes clause

B-183420

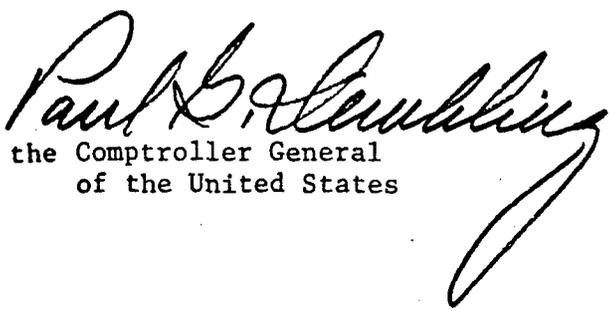
in the contract, with the Armed Services Board of Contract Appeals, ASBCA No. 19297. The default termination is a matter for the ASBCA rather than our Office. Finast Metal Products, Inc., B-179915, January 24, 1975. See also Allied Research Associates, Inc., B-181092, July 5, 1974, concerning ARA's earlier protest against the issuance of RFP -0777.

The instant procurement has been denominated by ECOM a reprourement against contract -1001. We have recognized that where a procurement is for the account for a defaulted contractor the statutes governing procurements by the Government are not applicable. Aerospace America, Inc., 54 Comp. Gen. 161, 162 (1974).

Further, ARA proposed a higher price for the reprourement than the price on the defaulted contract. In that connection, we have held that where a defaulted contractor offers a price on a reprourement contract higher than the price on the defaulted contract, the offer may not be accepted. Acceptance would be tantamount to a modification of the defaulted contract for an increased price without any consideration to the Government. Decatur-Wayne, Inc., B-181366, October 9, 1974, and decisions cited therein.

Finally, the question whether the contracting officer acted in a reasonable manner in accepting a price on the reprourement almost double that quoted by ARA is a matter for resolution under the Disputes clause of ARA's contract. International Harvester Company, B-181455, January 30, 1975.

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


For the Comptroller General
of the United States