

DECISION



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

50905

FILE: B-183999

DATE: September 2, 1975 97561

MATTER OF: Tucker Tool & Die, Inc.

DIGEST:

Protests concerning subcontracts, where the only Government involvement in selection is its approval of subcontract, will not be reviewed by this Office absent fraud or bad faith on part of procuring agency.

Tucker Tool and Die, Inc. (Tucker) has requested reconsideration of our decision of July 9, 1975, which declined to consider the merits of its protest as a subcontractor, since the only Government involvement in the subcontractor selection process was the approval of the subcontract and no fraud or bad faith was shown on the part of the procuring agency.

The basis on which Tucker seeks reconsideration is that General Dynamics, the prime contractor under contract No. F33657-75-C-0310 with the Air Force, did not award the subcontract in question in conformity with their request for quotes (RFQ). Tucker alleges that subcontract was awarded to Rohr Corporation (Rohr) on the basis of Rohr's capacity to "proof" N/C tapes on their own machines. The RFQ, however, stated that tool proofing costs were to be projected at General Dynamics. Tucker contends that the actions of General Dynamics in making the award, at best, amounted to bad faith so as to come within the rule in Optimum Systems, Incorporated, B-183039, March 19, 1975, 54 Comp. Gen. 767. Therefore, Tucker feels that the protest should be considered on its merits.

The test for GAO review of Government approval of subcontracts outlined in Optimum Systems, Incorporated is fraud or bad faith on the part of the procuring agency and not the prime contractor as contended by Tucker. Under the circumstances of the case at hand for the GAO to review the agency's approval action fraud or bad faith on the part of the agency must be shown. The record before our Office is devoid of any evidence which shows such action on the part of the Air Force.

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Since the request for reconsideration presents no evidence which was not already before our Office, we must affirm our decision of July 9, 1975.


Deputy Comptroller General
of the United States