

DECISION

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

60051

FILE: B-184718

DATE: October 14, 1975

MATTER OF: All-tronics, Inc.

97825

DIGEST:

Where Government's sole involvement in subcontractor selection process is its approval of subcontract award or proposed award, such action is reviewable as a bid protest only if fraud or bad faith on the part of Government procuring agency in approving subcontract award is alleged.

On or about June 1974, the United States Army Procurement Agency in Europe awarded contract No. DAJA37-74-C-4619 to a German firm for the supplying and installing of twenty-two shielded enclosures. All-tronics, Inc. (All-tronics) was the designated subcontractor.

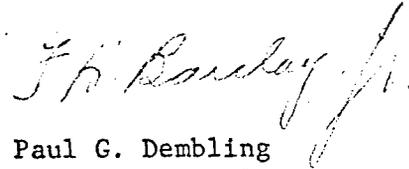
All-tronics has filed a protest with this Office against the contracting officer's approval of another subcontractor for an additional enclosure required by the Government.

All-tronics contends that it submitted a proposal for the additional enclosure through the prime contractor and Government audit indicated that its prices were fair and reasonable. The protester argues that the Government arbitrarily and without cause granted the German contractor permission to change suppliers. All-tronics alleges that there was direct governmental involvement in the procurement since the contract modification was issued by the Contracting Officer in Germany, the Procurement Agency initiated the audit of All-tronics and the responsibility for reasonable pricing rested with the Government. Since this was an existing contract, All-tronics argues that the Government's action in permitting a change of suppliers was inconsistent with U.S. Government procurement policies and ASPR regulations, and had a discriminatory and prejudicial effect on a small business like All-tronics. Accordingly, All-tronics has requested that this Office direct the Contracting Officer in Germany to instruct the prime contractor to reissue the modification to All-tronics.

The bid protest procedures of this Office, 40 Fed. Reg. 17979 (1975), do not provide for the adjudication of protests against subcontract awards made by prime contractors who are not acting as

purchasing agents for the Government. Where, as in this case, the selection of the subcontractor was made solely by the prime contractor with Government involvement only to the extent of its approval of the subcontract award or proposed award, we will review the agency's approval action only if fraud or bad faith in the Government approval action is alleged. Litton Industrial Products, Inc., B-181676, November 26, 1974, 74-2 CPD 291; Probe Systems, Incorporated, B-182236, January 2, 1975, 75-1 CPD 2; Optimum Systems, Incorporated - Subcontract Protest, 54 Comp. Gen. 767 (1975), 75-1 CPD 166.

Accordingly, we must decline to pass on the merits of All-tronics' protest.



For Paul G. Dembling
General Counsel