

DOCUMENT RESUME

02996 - [A2013105]

[Protest Subsequently Filed in Court of Competent Jurisdiction].
B-108330. July 18, 1977. 2 pp.

Decision re: U.S. Eagle, Inc.; by Paul G. Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law II.

Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).

Organization Concerned: Department of the Army: Letterman Army
Medical Center, Presidio of San Francisco, CA; Steamco
Janitorial Services, Inc.

Authority: 4 C.F.R. 20.10. Civil Action File No. C77 1320 WAI.

The protester objected to the cancellation of Invitation for Bids followed by another solicitation. Protester subsequently filed a request for relief in a court of competent jurisdiction involving the same issues. When this is the case, and neither protester nor the court indicates any interest in a GAO decision, the protest is dismissed. (Author/QM)

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MARTIN
P.L. II

DECISION



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

FILE: B-188330

DATE: July 18, 1977

MATTER OF: U.S. Eagle, Inc.

DIGEST:

Protest initially filed in GAO is dismissed when protester subsequently files request for relief in court of competent jurisdiction involving the same issues and neither protester nor court has indicated any interest in GAO decision.

U.S. Eagle, Inc. (Eagle) protests the cancellation of Invitation for Bids (IFB) DAKF01-77-B-0013 by the Procurement Division, Letterman Army Medical Center, Presidio of San Francisco, U.S. Army and the resolicitation of the U.S. Army's requirement for hospital house-keeping services.

Subsequent to the filing of the instant protest and the submission of comments by all interested parties, Eagle filed suit in the United States District Court for the Northern District of California (Civil Action File No. C77 1320 WAI), requesting, inter alia, that the U.S. Army be temporarily and permanently enjoined from receiving or opening any bids or offers submitted in response to the new solicitation and from making any contract award as a result thereof. The grounds presented as the basis for this suit are essentially the same as those presented to this Office in support of the protest.

A protest will not be decided by this Office where the material issues are pending before a court of competent jurisdiction unless the court requests, expects or otherwise expresses interest in our decision. 4 C.F.R. § 20.10 (1976). Since Eagle has not requested injunctive relief pending a determination by this Office and the Court has not indicated any interest in our view, we will not decide this protest.

Accordingly, this protest is dismissed.

B-188330

There is another protest on this procurement which has been filed by Steamco Janitorial Services, Inc. (Steamco). Steamco presents issues regarding the solicitation's requirements for a bid guarantee, performance bond and payment bond and it requests another resolicitation on the basis of revised terms and conditions. These issues are not before the Court in the Eagle suit and may be appropriate for future consideration by this Office depending upon the outcome of Eagle's suit.

Paul C. Dembling
Paul C. Dembling
General Counsel