

DOCUMENT RESUME

03268 - [A2233361]

[Protest against Award of Subcontract]. B-189182. August 8, 1977. 1 pp. + enclosure (1 pp.).

Decision re: Hiltop Corp.; by Paul G. Deabling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).  
Contact: Office of the General Counsel: Procurement Law I.  
Budget Function: National Defense: Department of Defense -  
Procurement & Contracts (050).  
Organization Concerned: Department of the Air Force.  
Authority: "Truth in Negotiations" Act (10 U.S.C. 2306(f)). 54  
Comp. Gen. 767.

The protester objected to the award by the prime contractor of a subcontract for printers, alleging that their new printer is more advantageous for cost and safety reasons and that the prime contractor violated the "Truth in Negotiations" Act by failing to inform the agency that the protester's product was the most advantageous for cost and safety reasons. The allegation provides no basis for invoking bid protest jurisdiction, since the act relates to the submission by a prospective contractor of certified accurate, complete, and current cost and pricing data, which was done. (Author/SC)

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**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20048**

FILE: B-189182

DATE: August 8, 1977

MATTER OF: Miltope Corporation

**DIGEST:**

Potential subcontractor protests that prime contractor on AF project violated "Truth in Negotiations" Act by failing to inform AF that protester's product was allegedly most advantageous to Government for cost and safety reasons. Such allegation provides no basis for invoking bid protest jurisdiction as act relates to submission by prospective contractor of certified accurate, complete and current cost and pricing data, which was in fact done.

Miltope Corporation (Miltope) protests the award to another company of a subcontract for printers by the prime contractor under contract No. F19628-76-C-0270 with the United States Air Force, on the basis that Miltope's new printer is more advantageous for cost and safety reasons. In addition, Miltope argues that the prime contractor violated the "Truth in Negotiations" Act, 10 U.S.C. § 2306(f) (1970), by failing to inform the Government of the alleged advantages of Miltope's printer.

Concerning whether Miltope should have been awarded the subcontract, in Optimum Systems, Incorporated, 54 Comp. Gen. 767 (1975), 75-1 CPD 166, our Office held that we would consider protests concerning the award of subcontracts by prime contractors only in certain circumstances. We advised Miltope of those circumstances, and by the nature of Miltope's response, we consider that its bid protest on that issue has been withdrawn.

Miltope's argument concerning the "Truth in Negotiations" Act provides no basis for our Office to consider the protest. The act merely requires, with certain exceptions, the submission by a prime contractor or a subcontractor of certified accurate, complete and current cost and pricing data. We have been advised by the contracting agency that all required cost and pricing data was submitted.

In view of the above, the protest is dismissed.

*Paul G. Dembling*  
Paul G. Dembling  
General Counsel



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548



OFFICE OF GENERAL COUNSEL

IN REPLY REFER TO: B-189182

August 8, 1977

Miltope Corporation  
9 Fairchild Avenue  
Plainview, New York 11803

Attention: Mr. Richard Pandolfi  
Vice President, Operations

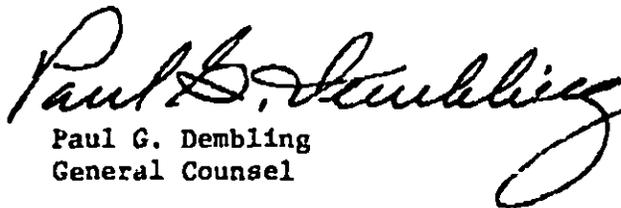
Gentlemen:

Enclosed is our decision of today concerning your protest against the award of a subcontract for printers by the prime contractor under contract No. F19628-76-C-0270 with the United States Air Force.

As noted in our decision, we considered that your response to our letter of June 17, in which we referenced the limited circumstances under which our Office would consider protests against subcontract awards, indicated you did not intend to pursue the bid protest against the award of the subject subcontract. The basis for our conclusion was your suggestion that the subject matter of your bid protest "falls within the jurisdiction of your agency's general audit functions."

In regard to your suggestion, the General Accounting Office (GAO) reviews a broad spectrum of Federal activities with limited resources. Consequently, critical decisions concerning the efficacy of each review in terms of obtaining the greatest benefit for resource utilization must be made. We have considered whether an investigation of the type you request is warranted in light of the possible benefits vis-a-vis utilization of personnel on other investigations, and it has been determined that the matter is not appropriate for review at this time.

Sincerely yours,

  
Paul G. Dembling  
General Counsel

Enclosure