

DECISION



B. Japikae
Pl 2
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20540

FILE: B-191466

DATE: November 8, 1978

MATTER OF: A & J Manufacturing Co.

8287

DIGEST:

Request that GAO intervene by recommending that contracting agency hold performance of contract in abeyance pending resolution of litigation between protester and awardee, regarding complaint that awardee has or will infringe protester's trade secrets and designs, is dismissed.

A & J Manufacturing Co. protests award of a contract to Magnavox Government and Industrial Electronics Co. (Magnavox) for AN/USC-28 Satellite Communications sets.

A & J states that it has filed a complaint in the United States District Court for the Central District Court of California, against Magnavox, in which A & J contends that Magnavox has engaged in various unfair and improper practices. Specifically, A & J charges that Magnavox has infringed A & J trade secrets and proprietary designs, evidently in connection with its proposal to the Government in response to solicitation DAAB07-78-R-002. The protester requests abeyance of the performance of the referenced contract until its pending litigation is settled.

The fact that litigation is pending between two non-Governmental litigants affords no basis for protest. Regarding rights to proprietary information, we have stated that we are not in a position to adjudicate a dispute between private parties concerning their respective rights in data and until those rights are established in a proper forum we will not disturb an on going procurement. ERA Industries, Inc.--Reconsideration, B-187406, July 1, 1977, 77-2 CPD 1; Garrett Corporation, B-182991, B-182903, January 13, 1976, 76-1 CPD 20.

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Accordingly, the protest is dismissed.

William J. Acosta
General Counsel