

DECISION



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

12579 Ph-4T  
[Protest Alleging Awardee Could Not Meet Solicitation Requirements]

FILE: B-197396

DATE: January 21, 1980

MATTER OF: <sup>3649</sup> Allison Warehouse & Transfer  
Company, Inc.

DIGEST:

Protest is dismissed where protester files request for relief in court of competent jurisdiction involving same material issues as protest and court has not indicated any interest in GAO decision.

u 3650- Allison Warehouse & Transfer Company, Inc. (Allison) has protested the award of a contract to Davis Moving and Storage, Inc. (Davis) by Little Rock Air Force Base under invitation for bids No. 3602-79-B-0045. Allison alleges that the award was improper because Davis did not have Interstate Commerce Commission operating authority as required by the solicitation. AGC00926

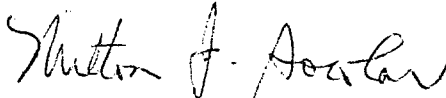
Allison's submission indicates that it has also sought judicial relief in the United States District Court, Eastern District of Arkansas (Docket No. R-C-80-8). The material issues raised in this litigation are essentially the same as those raised in the protest before this Office. It is the policy of this Office not to decide protests where the material issues are before a court of competent jurisdiction unless the court requests, expects, or otherwise expresses an interest in our decision. 4 C.F.R. § 20.10 (1979). Usually, that expectation or expression of interest results from the granting of a plaintiff's request for injunctive relief pending our decision, see, e.g., KET, Incorporated, 58 Comp. Gen. 38 (1978), 78-2 CPD 305,

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or from some other affirmative indication that the court is interested in our views. See, e.g., GTE Sylvania, Inc., 57 Comp. Gen. 715 (1978), 77-2 CPD 422; J. Baranello & Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322. Although the protester recites in its complaint that it has filed a protest with this Office, it has not requested injunctive relief pending our decision and in fact, the complaint points out that under 4 C.F.R. 20.10 we may refuse to decide the protest because it involves a matter before the court. Rather, the protester's complaint merely requests injunctive and declaratory relief. Moreover, we have not been informed that the court has expressed interest in our views, nor has the protester indicated that it intends to seek such an expression from the court.

Under these circumstances, we decline to consider the protest. 4 C.F.R. 20.10; Donley, Richardson and Associates, B-190772, January 10, 1978, 78-1 CPD 20; The George Sollitt Construction Company, B-190743, January 7, 1978, 78-1 CPD 17.

The protest is dismissed.

  
Milton J. Socolar  
General Counsel