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DECISION

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

FILE: B-198530

DATE: May 15, 1980

MATTER OF: Cubic Western Data

DIGEST:

[Protest against National Railroad Passenger Corporation (Amtrak) procurement] will not be considered since Corporation's accounts are not subject to settlement by GAO and no Federal Government involvement exists which would allow GAO to take jurisdiction.

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Cubic Western Data (CWD) protests the award of a contract to any party under request for quotations No. X-27-002-001 issued by the National Railroad Passenger Corporation (Amtrak) for the purchase of automatic ticketing devices. However, we decline to consider the protest.

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The Government Corporation Control Act defines Amtrak as a "mixed-ownership Government Corporation." 31 U.S.C. § 856 (1976), as amended. As a Government corporation, Amtrak possesses specific powers for carrying out its statutory duties. See 45 U.S.C. § 545 (1976), as amended.

Our protest jurisdiction is based on our authority to adjust and settle accounts and to certify balances in the accounts of accountable officers. 31 U.S.C. §§ 71, 74 (1976); 4 C.F.R. § 20.1(a) (1980). Generally, in the case of a mixed-ownership Government corporation such as Amtrak, our Office is limited to performing an audit of its financial transactions and reporting our findings and recommendations to Congress. 45 U.S.C. § 644 and 31 U.S.C. §§ 857, 858 (1976). We have also recognized that by consenting to the establishment of instrumentalities such as Government corporations, Congress intends to grant them a considerable amount of autonomy. See Charles Neason, B-195723, September 10, 1979, 79-2 CPD 184, and cases cited.

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However, there are situations in which we would consider a protest against an Amtrak procurement. For example, in Blakeslee Prestress, Inc., Formigli Corporation, and Dow-Mac Concrete, Ltd., B-190778, April 17, 1978, 78-1 CPD 297, we held that a protest by a potential subcontractor could be considered where the Department of Transportation was so actively involved in the selection of subcontractors that the net effect of this participation was to cause or control the selection or rejection of a potential subcontractor. In the alternative, we noted that another basis for considering the protest was the fact that, as the contractor, Amtrak was acting "for" the Department of Transportation in awarding the subcontract in question. However, under the present solicitation, Amtrak has informed us that the Federal Government is not involved in either the funding or administration of the procurement, but rather Amtrak is conducting the procurement in its capacity as a private corporation.

In view of the lack of Federal involvement, this matter clearly falls within our general rule regarding protests against mixed-ownership Government corporations. Charles Neason, supra. As mentioned above, our Office has no authority to settle and adjust the accounts of a mixed-ownership Government corporation such as Amtrak. Thus, we would be unable to effect remedial action even if we found it warranted under rules generally applicable to Federal procurements.

Protest dismissed.

Larry R. Socolar
for Milton J. Socolar
General Counsel