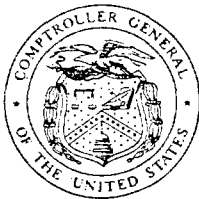


DECISION



14876
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

PLJ
[Protest of Default Termination of Contract]

FILE: B-200166

DATE: September 11, 1980

MATTER OF: Enviromarine Systems, Inc.

DIGEST:

Protest by defaulted contractor that reprocurement is unnecessary and that Government will furnish same faulty materials which led to protester's default is dismissed as Government has right to reprocure needs following default and question of quality of Government-furnished material is before Board of Contract Appeals and, therefore, not for resolution by GAO.

Enviromarine Systems, Inc. (ESI), has protested the issuance of invitation for bids No. NASO-80-00217 by the National Oceanic and Atmospheric Administration (NOAA).

The IFB is for a quantity of timers for which ESI previously held a contract. The items produced by ESI were rejected by the Government and ESI's contract defaulted. ESI has appealed the default termination to the Department of the Interior Board of Contract Appeals contending that the Government furnished ESI with faulty printed circuit board artwork and Government-mandated, sole-source components which led to the rejection. The appeal is currently pending before the Board.

ESI argues that the reprocurement is unnecessary, redundant and a waste of Government funds and that NOAA intends to supply the same faulty artwork to the successful bidder, thereby creating the same situation that now exists.

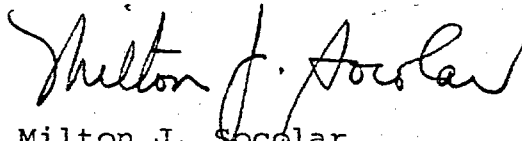
Since the Government did not obtain acceptable timers under ESI's contract, NOAA has the right to reprocure the items to fulfill the Government's needs.

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Concerning the contention that the Government will furnish faulty artwork under the current solicitation, this is the same issue which is before the Board of Contract Appeals and, therefore, we must decline to rule on the question since it is for resolution under the Disputes clause of ESI's defaulted contract. Chemical Technology, Inc., B-190074, April 25, 1978, 78-1 CPD 317. ESI may not collaterally attack the Government-furnished material or argue the same issue in two forums. GTE Sylvania Incorporated, B-192985, January 25, 1979, 79-1 CPD 53.

Accordingly, the protest is dismissed.

A handwritten signature in cursive script, reading "Milton J. Socolar".

Milton J. Socolar
General Counsel