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DECISION



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

[Protest of Air Force Requirement for Performance Bond]

FILE: B-202408

DATE: March 23, 1981

MATTER OF: J and J Maintenance, Inc.

DIGEST:

1. Questions regarding bond requirements which are implemented after contract award, including whether agency should terminate for default because of contractor's failure to fulfill contractual obligation, are matters of contract administration and not for consideration under General Accounting Office Bid Protest Procedures.
2. Freedom of Information Act application for disclosure of documents must be made to agency since General Accounting Office lacks authority to disclose agency documents to protester.

J and J Maintenance, Inc. (J & J), protests the action of the Department of the Air Force (Air Force) under contract No. F41687-80-C0026. The Air Force has notified J & J that it will terminate the contract for default unless J & J provides the payment and performance bonds required under the contract. The contract was awarded on June 24, 1980, and the request for the bond was not made until February 13, 1981. J & J asks us to consider whether the Air Force has constructively waived this requirement, whether failure to provide the bond would justify termination for default, and whether the United States could receive damages upon termination while the dispute as to whether the bond is required is pending.

This Office has held that questions regarding bond requirements which are to be implemented after contract award, including the question of whether the contracting agency should terminate that contract because of the contractor's failure to fulfill its contractual obligation, are matters of contract administration not cognizable under our Bid Protest Procedures. 4 C.F.R. part 20 (1980);

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Servidone Construction Corp.; Midwest Construction Company, B-198711, August 12, 1980, 80-2 CPD 109; James M. Carrol and Ralph Rabatin, B-199443, July 16, 1980, 80-2 CPD 36; Hi-Grade Cleaning, B-190889, April 14, 1978, 78-1 CPD 287. Thus, this Office will not consider the protest.

J & J has also requested from us a copy of the contracting officer's file concerning this case under the Freedom of Information Act. While we do not have any of the requested information concerning this matter in our possession, in any event, the Freedom of Information Act application for the disclosure of documents must be made to the agency, since the General Accounting Office lacks authority to disclose agency documents to the protester. Planned Systems International, Inc., B-199848, August 18, 1980, 80-2 CPD 130.

J & J's protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel