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**DECISION**



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

FILE: B-201249

DATE: May 20, 1981

MATTER OF: Advanced Energy Control Systems, Inc.

*[Protest of Contract Termination]*

DIGEST:

GAO review of termination for convenience actions is limited to instances where decision to terminate is based on agency determination that initial contract award was improper.

Advanced Energy Control Systems, Inc. (AECS) protests the termination of a contract under request for proposals (RFP) N00228-80-R-RA18 issued by the Naval Supply Center (Navy) for the maintenance and repair of the Honeywell Delta 2000 System located at the Naval Regional Medical Center, Oakland, California (NRMC). AECS contends that the contract was erroneously terminated because it would have been willing to negotiate any necessary modifications to the contract.

Prior to the closing of the RFP, Honeywell, Inc. informed personnel at NRMC, but not the contracting officer, that the specifications in the RFP were defective. The contract was awarded to AECS and Honeywell subsequently filed a protest with the Navy alleging defective specifications. Honeywell's protest was dismissed as untimely, but it alerted the contracting officer to the possibility of a defective contract. After the defects were verified the Navy decided to terminate the contract because it did not reflect the needs of the Government. AECS filed a protest with the Navy, requesting that the contract be reinstated and that negotiations be held to correct the deficiencies. The Navy denied the protest.

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As a general rule, our Office will not review an agency's decision to terminate a contract for the convenience of the Government since such a decision is a matter of contract administration.

In addition, since the Contract Disputes Act of 1978, 41 U.S.C. § 601 et seq. (Supp III 1979), vests contract appeals boards with authority to render relief for breach of contract claims, we believe it appropriate now to limit our review of termination for convenience actions to those instances where the validity of the procedures leading to the award of the contract to the terminated contractor form the basis of the agency's action, i.e., where the agency concludes the initial contract award was improper. See generally, New England Telephone and Telegraph Company, B-197297, September 25, 1980, 80-2 CPD 225. This is a departure from our previously stated standard of review wherein we indicated that we would consider allegations of bad faith in the termination action because a bad faith termination involved potential breach of contract damages. Communications Company, A Division of E.F. Johnson Company, B-198864, October 22, 1980, 80-2 CPD 309.

In any event, AECS has not alleged or shown bad faith in connection with the termination, and the decision to terminate was not based on any improprieties in the award process, but rather on factors which only became apparent to the contracting officer after the award had been made.

The protest is dismissed.

*Harry R. Van Cleve*

Harry R. Van Cleve  
Acting General Counsel