

DECISION

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

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FILE: B-217001**DATE:** November 27, 1984**MATTER OF:** Pacific Radiology Associates, P.S., Inc.**DIGEST:**

GAO will dismiss a protest where the material issues are before a court of competent jurisdiction, the protester has not requested that the court seek a GAO opinion, and the court has not otherwise expressed an interest in receiving GAO's views.

Pacific Radiology Associates, P.S., Inc. protests the award of contracts by the Department of Health and Human Services (HHS) to Pacific Health Associates of Seattle and to Sterling Medical Associates. We dismiss the protest.

Under request for proposals No. 243-RFP-84-0025, the Alaska Area Native Health Service sought diagnostic radiology consultation services at six hospitals. Pacific Radiology alleges that the technical and cost evaluation of its proposal for such services was deficient and that HHS did not follow proper procedures for the award of negotiated contracts.

On October 26, 1984, Pacific Radiology filed a suit in the United States District Court for the Western District of Washington (Civil Action No. C841474), seeking injunctive relief, damages for breach of implied contract, and attorney's fees and costs. The court's resolution of the issues before it, which are identical to those raised in the protest filed with our Office on November 1, 1984, will control the resolution of the protest. It is our policy 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 views. 4 C.F.R. § 21.10 (1984).

It is apparent from copies of the pleadings submitted to our Office that the protester in this case has not requested that the court seek our opinion on the matter before it, and the court has not otherwise indicated an

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interest in our decision. Therefore, we dismiss Pacific Radiology's protest. See Tadiran Israel Electronics Industries, Ltd., B-210810, Mar. 15, 1983, 83-1 CPD ¶ 260.

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General Counsel