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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Capital Engineering & Mfg. Co.

File: B-224268

Date: October 9, 1986

DIGEST

Contracting officer can properly reject proposal of suspended contractor on a RFP, even if the suspension status is being reconsidered.

DECISION

Capital Engineering & Mfg. Co. (Capital) protests an award to Universal Hydraulics by the United States Army Tank Automotive Command (TACOM) under request for proposals (RFP) No. DAAE07-86-R-A197. Capital explains that it had been suspended from contracting by the Army on September 11, 1986, and it would have received the award under the RFP as the low offeror, but for the suspension. Capital argues that no award should have been made until Capital's appeal of the suspension had been resolved because there is reasonable cause to believe that the suspension will be lifted and because the contracting officer orchestrated the suspension to prevent Capital from receiving the award under this RFP.

We dismiss the protest.

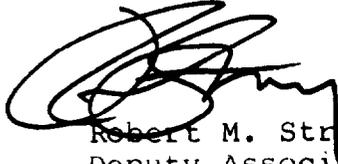
The Department of Defense, Federal Acquisition Regulations Supplement, 48 C.F.R. § 209.405(a)(1) (1984), provides in pertinent part:

" . . . proposals, quotations or offers received from any listed [debarred or suspended] contractor shall not be evaluated for award or included in the competitive range, and discussions shall not be conducted with such offeror, unless the Secretary concerned or his authorized representative determines in writing that there is a compelling reason to make an exception."

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Therefore, it is a proper exercise of the contracting officer's discretion to reject the proposal of a suspended contractor, even if this status is being reconsidered. Tracor Applied Sciences, Inc., B-221239.2 et al., Feb. 24, 1986, 86-1 C.P.D. ¶ 189.

Accordingly, the protest is dismissed.



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