



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Firm Reis, GmbH
File: B-224545
Date: November 12, 1986

DIGEST

The General Accounting Office will not review an agency's termination of a contract for convenience in order to perform the work with its own personnel. Therefore, since contract awarded pursuant to protested procurement has been terminated for convenience, protest that agency improperly determined protester to be nonresponsible and that agency improperly did not suspend performance under contract after protest was filed is academic.

DECISION

On October 9, 1986, Firm Reis, GmbH protested the award of a contract to a competitor by the Department of the Army under request for proposals (RFP) No. DAJA37-86-R-0616. Firm Reis contended that the Army's finding that Firm Reis was nonresponsible was arbitrary, unreasonable, irrational and should be overturned. By letter of October 24, Firm Reis protested the Army's failure to suspend performance on the contract awarded to the competitor on September 30 and also the Army's termination of that contract (DAJA37-86-C-0571) for the convenience of the government. Firm Reis contended that the Army's termination improperly affected its right to perform the contract and that this is contrary to our Bid Protest Regulations, 4 C.F.R. Part 21 (1986). The Army confirms that the awarded contract has been terminated because it has decided to have the boiler-firing services performed by its own personnel.

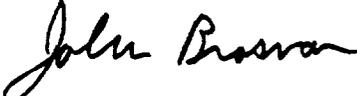
As a general rule, our Office will not review an agency's decision to terminate a contract for the convenience of the government since this is a matter of contract administration for consideration by a board of contract appeals or a court of competent jurisdiction. We will review contract terminations only where the contracting agency's decision is based upon a determination that the contract was improperly awarded. Hero, Inc., B-221820, May 12, 1986, 86-1 CPD ¶ 450. There was no such determination made here. Rather, the record shows that the contract was terminated solely because the agency decided to

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perform the services with its own personnel. Accordingly, we will not consider the allegation that the contract was improperly terminated for the convenience of the government.

Since the contract has been terminated for the convenience of the government and the work will be performed by Army personnel, Firm Reis' protest concerning the propriety of the Army's finding of nonresponsibility and the failure to suspend contract performance after the protest had been filed is academic and will not be considered on its merits. Techniarts Engineers and Contractors et al., B-220122 et al., Oct. 22, 1985, 85-2 CPD ¶ 440.

The protest is dismissed.


for Ronald Berger
Deputy Associate
General Counsel