

G. Hooley



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Colt Industries Inc.
File: B-235589, B-235590, B-235591
Date: May 30, 1989

DIGEST

The General Accounting Office generally will not consider a protest that alleges the protester is entitled to a sole-source award because the objective of GAO's bid protest function is to insure full and open competition.

DECISION

Colt Industries Inc. protests requests for proposals (RFPs) No. DAAA09-89-R-0508, DAAA09-89-R-0545, and DAAA09-89-R-0692, issued by the U.S. Army Armament Munitions and Chemical Command for components of the M16A2 rifle. Colt argues that it has the exclusive right to manufacture M16A2 rifle components by virtue of proprietary rights which it has in technical data for the M16 series, and that the solicited components should have been awarded to it on a sole-source basis.

We dismiss the protests.

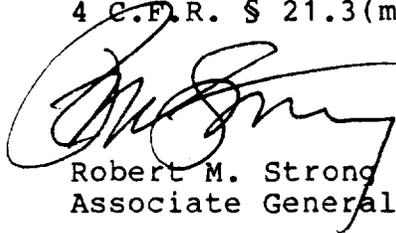
Colt contends that the government previously possessed rights to use the M16 series technical data by virtue of a license agreement between the government and Colt, but that those rights were extinguished because of an alleged breach of the agreement by the government and the resulting termination of the agreement by Colt. The Air Force advises that it is the government's position that the license agreement has not been breached and is still valid; thus the government still possesses the right to use M16 series technical data for the above acquisitions.

Since the objective of our bid protest function is to insure full and open competition for government contracts, our Office does not generally consider it appropriate to review a protest that an agency should procure an item from a

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particular firm on a sole-source basis. American Cyanamid Co., B-230044 et al., Apr. 7, 1988, 88-1 CPD ¶ 350. This is so even where the protester claims that its proprietary position makes it the only firm qualified to do the work. Malzahn Co., B-225813, June 5, 1987, 87-1 CPD ¶ 574. As we have previously stated, the appropriate remedy for a firm that contends that the government has infringed its proprietary rights is administrative settlement of its claim or a judicial action against the government for damages. See Del Mar Avionics--Request for Reconsideration, B-231124.2, Feb. 9, 1989, 89-1 CPD ¶ 131.

Accordingly, we find that Colt has not stated a valid basis of protest, and we dismiss the protests pursuant to our Regulations without requesting a report from the agency. 4 C.F.R. § 21.3(m) (1988).



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