

Thomas



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Nova Group, Inc.

File: B-270486

Date: November 15, 1995

DECISION

Nova Group, Inc. protests the award of a contract to Apollo, Inc. by ICF Kaiser Hanford Company, a subcontractor for Westinghouse Hanford Company, which is a management and operating contractor for the Department of Energy (DOE) under invitation for bids No. KH-5506.

We dismiss the protest because our Office generally does not review the selection of subcontractors.¹

Protests filed on or after October 1, 1995, are subject to our revised Bid Protest Regulations. See 60 Fed. Reg. 40,737 (Aug. 10, 1995) (to be codified at 4 C.F.R. Part 21). Pursuant to those Regulations, we review subcontract award protests only where we are requested in writing by the federal agency involved to do so. Section 21.5(h), 60 Fed Reg. supra, 40742 (to be codified at 4 C.F.R. § 21.5(h)). The federal agency involved here has not requested our review.

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¹Prior to the effective date of our revised Regulations, we reviewed certain subcontract procurements, usually in situations when prime contractors operated and managed government facilities. See, e.g., Maxwell Labs., Inc., B-253737, Oct. 19, 1993; 93-2 CPD ¶ 239; United Tel. Co. of the N.W., B-246977, Apr. 20, 1992, 92-1 CPD ¶ 374, aff'd, Dept. of Energy-Recon., B-246977.2 et al., July 14, 1992, 92-2 CPD ¶ 20. This review role was called into question by U.S. West Comms. Servs., Inc. v. United States, 940 F.2d 622 (Fed. Cir. 1991), which held that under the Competition in Contracting Act of 1984, the General Services Administration Board of Contract Appeals does not have jurisdiction over protests of subcontract awards. Construing statutory language basically identical to that applicable to the General Accounting Office, the court held that the Board was not empowered to hear a protest of a procurement conducted by an M&O contractor because the procurement was not a federal agency procurement. See Geo-Centers, Inc., B-261716, June 29, 1995, 95-2 CPD ¶ ____.

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