



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter: Gene's Enterprises, Inc.

File: B-270760

Date: December 29, 1995

DECISION

Gene's Enterprises, Inc. protests the award of a contract under solicitation No. SD-V-93-051-95-397 issued by the Army and Air Force-Exchange Service (AAFES).

We dismiss the protest. The AAFES is a nonappropriated fund activity. We have no jurisdiction over procurements conducted by nonappropriated fund activities.

Our bid protest jurisdiction is limited to procurements of federal agencies. 31 U.S.C. § 3551; Bid Protest Regulations, Sections 21.1(a) and 21.5(g), 60 Fed. Reg. 40,737, 40,740 and 40,742 (Aug. 10, 1995) (to be codified at 4 C.F.R. §§ 21.1(a), 21.5(g)). A federal agency is:

"any executive department or independent establishment in the executive branch, including any wholly owned government corporation, and any establishment in the legislative or judicial branch, except the Senate, the House of Representatives and the Architect of the Capitol and any activities under his direction." Section 21.0(c), 60 Fed. Reg. supra at 40,739 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.0(c)).

A nonappropriated fund activity of the government is not a federal agency as that term is used in the law authorizing our bid protest review role. Section 21.5(g), 60 Fed. Reg. supra (to be codified at 4 C.F.R. § 21.5(g)). Since the entity here is not a federal agency, we are without jurisdiction to consider the protest. Centex Constr. Co., Inc., B-238812, Mar. 7, 1990, 90-1 CPD ¶ 256.

The protest is dismissed.

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