

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-185920

DATE: July 13, 1976

MATTER OF: Automatic Laundry Company of Dallas

61125
97939

DIGEST:

Second-tier subcontract protest will not be considered on merits, since protest does not fall within any of the stated exceptions of Optimum Systems, Incorporated, 54 Comp. Gen. 767 (1975), 75-1 CPD 166, under which we will consider protests against awards of subcontracts by Government prime contractors.

Automatic Laundry Company of Dallas (Automatic) protests an award to any other subcontractor for laundry equipment by H. B. Zachry Company (Zachry), a first-tier subcontractor under E-Systems, Inc., prime contract No. SSM-76-001 issued by the Department of State.

In Optimum Systems, Incorporated, 54 Comp. Gen. 767 (1975), 75-1 CPD 166, our Office held that we would only consider protests against the award of subcontracts by prime contractors in certain circumstances. Zachry is not the prime contractor in the instant protest. This is a subcontract protest at the second-tier subcontractor level.

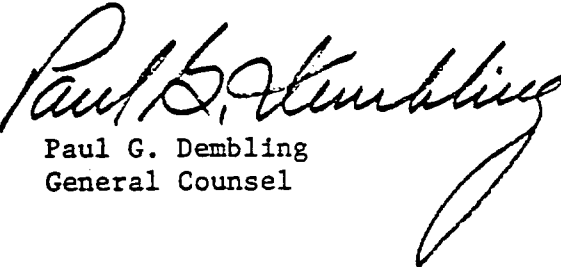
Counsel for Automatic argues that GAO should exercise jurisdiction over the protested procurement since the award of the contract is prejudicial to the interests of the Government and it does not comply with the "Federal norm."

Basically, the GAO will consider protests against awards of subcontracts by prime contractors under five areas: first, where the prime contractor is acting as purchasing agent of the Government; second, in cases where the Government's active or direct participation in the selections of the subcontractor has the net effect of causing or controlling the rejection or selection of a potential subcontractor, or has significantly limited subcontract sources; third, fraud or bad faith in Government approval of the subcontract award or proposed award is shown; fourth, where the subcontract award is "for" an agency of the Federal Government; and

fifth, where the questions concerning the awards of subcontracts are submitted by officials of Federal agencies who are entitled to advance decisions from our Office.

Our Office has held that allegations of an award being prejudicial to the interests of the Government are not exceptions under which we will consider a protest by a subcontractor. Rantec Division of Emerson Electric Company, B-185250, December 15, 1975, 75-2 CPD 394. Thus, the question of whether the "Federal norm" is being followed in the immediate subcontractor situation is not for consideration for the reasons indicated.

Accordingly, since none of the bases under which we will consider protests against awards of subcontracts has been alleged or shown to exist, we must decline to consider the merits of the protest.


Paul G. Dembling
General Counsel