

DOCUMENT RESUME

D0280 - [A2273382]

[Protest against Procurement by Prime Contractor]. B-189586.
August 9, 1977. 2 pp.

Decision re: American Student List Co., Inc.; by Paul G.
Dewbling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law I.
Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).
Organization Concerned: J. Walter Thompson Co.; Marine Corps.
Authority: 54 Comp. Gen. 767.

The protester objected to a request for proposals issued by a prime contractor, alleging that the request did not permit proper bidding. The protest was not considered on its merits, since it did not fall within any of the stated exceptions under which GAO will consider protests against awards of subcontracts by Government prime contractors. (Author/SC)

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DECISION

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

FILE: B-189586 **DATE:** August 9, 1977
MATTER OF: American Student List Company, Inc.

DIGEST:

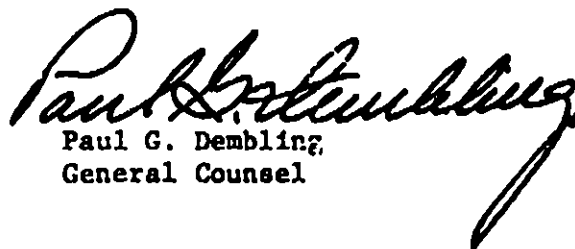
Subcontract protest will not be considered on merits, since protest does not fall within any of the stated exceptions in our decision in Optimum Systems, Incorporated, 54 Comp. Gen. 767 (1975), 75-1 CPD 166, under which we will consider protests against awards of subcontracts by Government prime contractors.

The American Student List Company, Inc. (American), protests a request for proposals (RFP) for a list of the "class of '78" high school senior males, issued by the J. Walter Thompson Company (JWT), prime contractor with the United States Marine Corps, for use by all the Armed Forces participating in the Joint Advertising Directors in Recruitment. The gravamen of the protest is that the RFP developed by JWT does not permit proper bidding.

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. Basically, the GAO will consider protests against awards of subcontracts by prime contractors under five circumstances: 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 selection 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. See cases cited in text for examples of each of the instances under which we will consider subcontract protests.

B-189586

Since none of the bases under which we will consider protests against awards of subcontracts by prime contractors of the Government has been alleged or shown to exist in the case at hand, we decline to consider the merits of the protest.


Paul G. Dembling,
General Counsel