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DECISION



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

FILE: B-203487 DATE: June 15, 1981

MATTER OF: Wood Ivy Systems Corporation

DIGEST:

Protest of award by the Department of Energy Strategic Petroleum Reserve prime contractor is dismissed because protest does not meet any circumstances under which GAO considers subcontractor protests.

Wood Ivy Systems Corporation protests the award of a contract by Dravo Utility Corporation, Inc. (DUCI) to another firm on the ground that the award allegedly was made on a different basis than that stated in the solicitation. DUCI is an independent prime service contractor for the Department of Energy's (DOE) Office of Strategic Petroleum Reserve. We dismiss the protest because it does not meet any of the limited circumstances under which we will review subcontractor protests.

Our Office will consider subcontractor protests only in limited circumstances: (1) where the prime contractor is acting as purchasing agent of the Government; (2) where the Government's active or direct participation in the selection of the subcontractor has the net effect of rejecting or selecting a potential subcontractor, or significantly limiting subcontract sources; (3) where fraud or bad faith is shown in the Government's approval of the subcontract award or proposed award; (4) where the subcontract is "for" an agency of the Government; or (5) where the questions concerning the award of subcontracts are submitted by Federal officials who are entitled to advance decisions by this Office. Optimum Systems, Incorporated, 54 Comp. Gen. 767 (1975), 75-1 CPD 166.

We recently ruled that a subcontract award by DUCI did not meet any of the circumstances for such review.

[Subcontractor Protest Involving DOE Contract]

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Bayou State Security Services, Inc., B-195675, February 6, 1980, 80-1 CPD 97. We stated that there is nothing in DUCI's Strategic Petroleum Reserve prime contract indicating that DUCI is acting as a purchasing agent for DOE (circumstance 1); that is, there is nothing which operates to directly bind the Government to DUCI subcontracts. We also stated that we do not consider DUCI's subcontract awards to be made "for" the Government (circumstance 4) since we have traditionally considered such awards to include only awards by prime management contractors which operated and managed Atomic Energy Commission (now DOE) facilities and purchases of equipment for Government-owned, contractor-operated plants; in addition, we have considered procurements by cost-type construction management prime contractors to be awards "for" the Government. We observed that DUCI does not fall within any of these categories.

Since Wood Ivy Systems has not alleged that DOE was involved in the subcontract award in any manner (circumstances 2 and 3) and the fifth circumstance forth in Optimum Systems is clearly inapplicable, the protest does not meet any of the circumstances for our review.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel