



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Cryptek, Inc.

File: B-241580

Date: February 12, 1991

Richard J. Conway, Esq., Dickstein, Shapiro & Morin, for the protester.
Carl J. Peckinpaugh, Esq., Department of the Air Force, for the agency.
Scott H. Riback, Esq., and Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest raising same issues as those resolved in a recent decision on a protest by the same protester and involving the same agency is dismissed as no useful purpose would be served by further consideration of the matter.

DECISION

Cryptek, Inc. protests the award of a contract to Ilex Systems, Inc. under request for proposals (RFP) No. F49642-90-BA064, issued by the Department of the Air Force for TEMPEST-certified facsimile (fax) machines. **Cryptek** argues that Ilex offered a foreign end product for purposes of the Buy American Act (BAA), 41 U.S.C. § 10a et seq. (1988).

We dismiss the protest.

The issues raised in this protest are identical to the issues raised in Cryptek, Inc., B-241354, Feb. 4, 1991, 91-1 CPD ¶ , which involved the issue of whether the Ilex product was a foreign or domestic end product for BAA purposes, as well as the issue of whether the contracting officer had a duty to investigate beyond Ilex's self-certification for BAA purposes.^{1/} The protester here relies upon the same arguments

^{1/} Cryptek argued in the earlier protest, as well as in this protest, that the contracting officer had a duty to investigate Ilex's self-certification because of a statement contained in Cryptek's offers alleging, in substance, that the Ilex product did not meet the requirements of the BAA.

advanced in the earlier case in which we concluded that, beyond obtaining a verbal confirmation of Ilex's BAA self-certification, there was no obligation on the part of the contracting officer to investigate further Ilex's compliance with the BAA prior to award and that the award to Ilex was legally unobjectionable. The record in the earlier case also showed that the Air Force now has sufficient information to conduct an in-depth analysis of the Ilex product and intends to conduct such a review.

Since the issues raised and the arguments made by Cryptek in this protest are the same as in the earlier protest which was resolved by our decision of February 4, we see no useful purpose to be served by our further consideration of this protest. Wallace O'Connor, Inc., B-227891, Aug. 31, 1987, 87-2 CPD ¶ 213.

The protest is dismissed.



Michael R. Golden
Assistant General Counsel