



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-222513.2

June 30, 1986

The Honorable Christopher J. Dodd
United States Senator
60 Washington Street
Hartford, Connecticut 06106

Dear Senator Dodd:

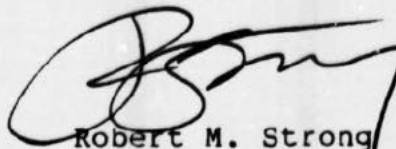
This responds to your June 11, 1986, letter inquiring as to a bid protest filed in our Office by Nalco Chemical Company of the award of a contract by the Department of the Navy. The contract is for chemical treatment and services at the Navy's submarine base in Groton, Connecticut.

The protest, filed on April 18, focused on the contract awardee's possible infringement on a Nalco patent. We dismissed the matter by notice by that same date because it did not present a proper basis for protest under our Bid Protest Regulations. As explained in section 21.3(f) of our Regulations, a contractor's exclusive remedy for patent infringement is a suit for damages filed in the United States Claims Court.

We note that in a February 6 letter from Nalco to you, which was attached to your inquiry, Nalco complains that none of its competitors in the procurement (the contract evidently was awarded after February 6, but before the bid protest) is technically competent to perform, but, that, according to Navy regulations, all of them automatically qualified for the procurement. We point out, however, that since this was a negotiated procurement only a firm whose offer in response to the particular solicitation was judged technically acceptable could be awarded the contract, and then only if the firm was found responsible, i.e., capable of meeting the contract obligation. We will not object to a contracting agency's technical judgment unless a protester shows it was unreasonable, and we generally do not review an affirmative determination of responsibility. In any case, Nalco did not raise either matter in its protest.

Enclosed is a copy of our April 18 dismissal notice and a copy of our Regulations. If you need any further information, my telephone number is 202-275-9740.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'R. Strong', written over the printed name.

Robert M. Strong
Deputy Associate General Counsel

Enclosures - 2