

DECISION



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

FILE: B-181440, B-182152, B-184335 DATE: February 9, 1976

MATTER OF: Computer Machining Technology Corporation

DIGEST:

Protests alleging misuse by Government of protester's proprietary data are dismissed because, as provided in section 20.10 of GAO's Bid Protest Procedures, it is the policy of this Office not to render decisions on protest issues which are pending before a court of competent jurisdiction.

Computer Machining Technology Corporation (CMT) filed protests with our Office concerning requests for proposals (RFPs) No. DSA700-74-R-2796, DSA700-74-R-5497 and DSA700-75-R-2580, all issued by the Defense Supply Agency, Defense Construction Supply Center.

Each of these RFPs, as originally issued, was for a part for which CMT was the only approved source. Each RFP was amended to add to the approved product list supplies manufactured by Precision Products, Inc. (Precision). The essence of CMT's protests is that approval of Precision as an alternate source could only have been accomplished through the Government's misuse and indirect disclosure of data proprietary to CMT.

After two of the protests had been filed with our Office, CMT filed suit with the United States District Court for the District of Columbia seeking a preliminary injunction, on the basis that DSA had failed to adhere to the Armed Services Procurement Regulation in the addition of Precision as a new source and that the Government had misused, violated and indirectly divulged CMT's proprietary data to Precision. By order of the Federal District Court filed July 22, 1975, in the case of Computer Machining Technology Corporation v. James R. Schlesinger, et.al, Civil Action No. 74-1452, protester's motion for a preliminary injunction was denied and the complaint was dismissed. CMT subsequently filed notice of appeal to the United States Court of Appeals for the District of Columbia Circuit.

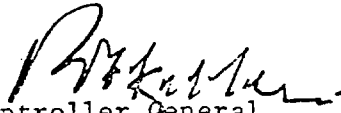
Protester has stipulated that each of its three protests is based upon the alleged violation of its proprietary data by DSA. Moreover,

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although each protest deals with a separate RFP the essential facts, applicable precedent and regulations are the same. Consequently, the three protests have been consolidated for decision of this Office.

Since it does not appear from the motion for a preliminary injunction and complaint, the respective denial and dismissal of which CMT now appeals to the Court of Appeals, that protester is seeking injunctive relief from the Court pending a decision by this Office but, rather, is seeking a final adjudication of the merits by the Court, and since whatever action the Court may decide to take assumes precedence over a decision by this Office we are compelled to decline further consideration of these three protests. 4 C.F.R. § 20.10 (1975). See also, Nartron Corporation, B-178224, B-179173, July 17, 1974, 74-2 CPD 35.

Accordingly, the protests are dismissed.


Deputy Comptroller General
of the United States