

DOCUMENT RESUME

02687 - [A1792804]

[Appeal of Contract Termination]. E-189164. June 15, 1977. 2 pp.

Decision: re: B. W. I. Plastics & Chemicals Corp.; by Paul G. Dembling, 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: Defense Supply Agency: Defense General
Supply Center, Richmond, VA.

Authority: B-184266 (1976). B-182820 (1975). E-181366 (1974).

The contractor protested the termination of two contracts for default and requested GAO to investigate the circumstances of the terminations. Disputes concerning the propriety of terminations for default are matters of contract administration, and are to be resolved by the contracting agency not by GAO. In addition, this matter was pending before the Armed Services Board of Contract Appeals, and therefore, GAO declined to consider it. (Author/SC)

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DECISION



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

FILE: B-189164

DATE: June 15, 1977

MATTER OF: B.W.I. Plastics & Chemicals Corporation

DIGEST:

1. Matter presented for our resolution is pending before board of contract appeals; therefore, our Office declines to consider it.
2. Dispute concerning terminations of contracts for default is matter of contract administration which is for resolution by contracting agency, not GAO.

The Defense General Supply Center (DGSC), Richmond, Virginia, awarded contracts DSA400-76-C-2262 and DSA400-76-C-3530 to B.W.I. B.W.I. was unable to meet the agreed upon delivery schedule, and DGSC terminated the contracts for default, stating that the Department of Defense was in urgent need of the supplies.

B.W.I. has appealed the terminations to the Armed Services Board of Contract Appeals (ASBCA) on the grounds that the delay was justified, as it resulted from unusually severe weather, and that B.W.I. can still deliver the supplies more quickly than DGSC can procure them elsewhere. We have been advised that B.W.I.'s appeal is pending before the ASBCA.

By letter filed in our Office on May 23, 1977, B.W.I. protests the terminations on the same grounds as it asserts in its appeal before the ASBCA, and requests that our Office investigate the circumstances of the terminations.

Disputes concerning the propriety of terminations for default are matters of contract administration and are to be resolved by the contracting agency, not our Office. See D.C. Electronics, Inc., B-184266, March 8, 1976, 76-1 CPD 160. When a matter presented for our resolution is also pending before a court or a board of contract appeals, our Office will decline to consider the matter. See Delta Electric Construction Company, B-182820, March 28, 1975, 75-1 CPD 188; Decatur-Wayne, Inc., B-181366, October 9, 1974, 74-2 CPD 200.

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Accordingly, the protest is not for consideration.

Paul G. Dembling
Paul G. Dembling
General Counsel