

DECISION

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

FILE: B-199947

DATE: November 10, 1980

MATTER OF: The Stanwick Corporation

DIGEST:

Protest is dismissed where protester files request for relief in court of competent jurisdiction involving same material issues as protest and court has not indicated any interest in GAO decision.

The Stanwick Corporation (Stanwick) has protested the award of a contract to M. Rosenblatt & Son, Inc., under solicitation No. N00123-80-R-0193 issued by the Department of the Navy. Subsequent to filing its protest, Stanwick also sought a temporary restraining order, a preliminary injunction, permanent injunctive relief and a declaratory judgment in the United States District Court for the District of Columbia, Civil Action No. 80-2625, thereby placing the material issues involved in the protest before the court.

It is the policy of this Office not to decide protests where the material issues are before a court of competent jurisdiction unless the court requests, expects, or otherwise expresses an interest in our decision. 4 C.F.R. § 20.10 (1980); E.A. Ellis Contractors, Inc., B-197445, March 11, 1980, 80-1 CPD 189. Usually, the expectation or expression of interest results from the granting of a plaintiff's request for injunctive relief pending our decision, see, e.g., KET. Incorporated, 58 Comp. Gen. 38 (1978), 78-2 CPD 305, or from some other affirmative indication that the court is interested in our views. See, e.g., GTE Sylvania, Inc., 57 Comp. Gen. 715 (1977), 77-2 CPD 422; J. Baranello & Sons, 58 Comp. Gen. 509 (1979), 79-1 CPD 322.

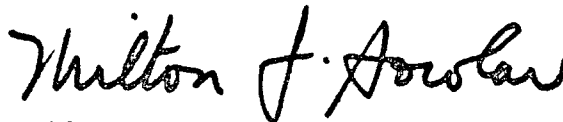
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In this case, the court has not expressed interest in our views, nor has the protester sought such an expression from the court. While the protester cites in its complaint that it has filed a protest with this Office, the complaint states that the Navy has not yet responded to its protest, that the administrative record before GAO is so incomplete as to render impossible an informed decision on the protest, and accordingly that the plaintiff requires temporary and preliminary relief until the court can rule on its request for permanent relief.

Under these circumstances, we decline to consider the protest. 4 C.F.R. § 20.10; E.A. Ellis Contractors, Inc., supra; Allison Warehouse & Transfer Company, Inc., B-197396, January 21, 1980, 80-1 CPD 62.

The protest is dismissed.



Milton J. Socolar
General Counsel