

**DECISION**

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

**FILE:** B-222402 **DATE:** April 10, 1986  
**MATTER OF:** Analytics Communications System

**DIGEST:**

Protest is dismissed where protester is a potential subcontractor, whose protests are no longer considered under the General Accounting Office's Bid Protest Regulations absent circumstances not shown to be present here, 4 C.F.R. § 21.3(f)(10) (1985), and where substantially the same issue is being litigated before the General Services Administration Board of Contract Appeals by a potential prime contractor.

Analytics Communications Systems (ACS) objects to the Federal Aviation Administration's (FAA's) award of a contract to Uninet under request for proposals No. DTFA01-85-R-02869 for the development and installation of an administrative data communications network. ACS alleges that Uninet proposed to utilize equipment supplied by the Paradyne Corporation, a company suspended or disqualified from government contracting or government-approved subcontracting.

We dismiss the protest.

We have been informed by the FAA that ACS did not submit a proposal on its own behalf. Rather, the agency indicates, and ACS confirms, that ACS is only a potential subcontractor to one or more of the offerors--including Electronic Data Systems Federal Corporation (EDS)--responding to this solicitation.

The merits of ACS's complaint are not for consideration under our Bid Protest Regulations, 4 C.F.R. part 21 (1985), since we no longer consider subcontractor protests except where the subcontract is by or for the government, 4 C.F.R. § 21.3(f)(10), which does not appear to be the case here.

In addition, EDS has protested the award to the General Services Administration Board of Contract Appeals (GSBCA). Its protest is based, in part, on the allegation that until after the submission of best and final offers, Uninet had

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proposed the use of Paradyne as a subcontractor to meet the technical requirements of the solicitation. We note that GSBICA has recently ruled that the protest is subject to its jurisdiction.

Since substantially the same issue raised by ACS is being actively litigated before the GSBICA by EDS, it would be inappropriate for us to consider ACS's complaint. See Systems and Facilities Corp., B-220580, Dec. 16, 1985, 85-2 C.P.D. ¶ 674.

The protest is dismissed.



Robert M. Strong  
Deputy Associate General Counsel