



Comptroller General
of the United States

Washington, D.C. 20548

1-1-497

Decision

Matter of: Composite Technology, Inc.

File: B-245783.2

Date: December 23, 1991

Lana H. Kerrick for the protester,
Charles W. Morrow, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest by a terminated contractor challenging the contract termination taken by the agency as corrective action in response to an earlier protest by another firm, which had been found nonresponsible, is dismissed, since the protest of the corrective action, in effect, challenges an affirmative determination of responsibility, and does not allege fraud, bad faith, or a misapplication of definitive responsibility criteria.

DECISION

Composite Technology, Inc. protests the partial termination of its contract and the award of a contract to Sikorsky Support Services, Inc. under request for proposals (RFP) No. DAAJ09-91-R-0099, issued by the Department of the Army, for the overhaul/repair of helicopter tip cap assemblies.

We dismiss the protest.

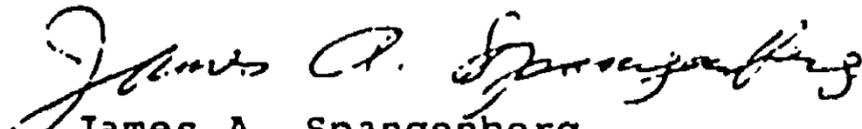
Under the RFP, award was to be made to the responsive and responsible offeror whose proposal was evaluated as the lowest cost to the government. Composite was awarded the contract after the Army determined Sikorsky, who had submitted the low-priced proposal, was nonresponsible. On September 20, 1991, Sikorsky protested the award of the contract to Composite on the grounds that the Army had improperly determined Sikorsky to be nonresponsible.

On October 22, Sikorsky withdrew the protest, based upon a settlement agreement with the Army whereunder the Army admitted that Sikorsky had been improperly determined to be nonresponsible. The Army agreed to partially terminate the contract award to Composite and make award to Sikorsky.

Composite objects to the corrective action undertaken by the Army asserting that it was unjustified. This allegation, in itself, does not raise a basis for protest for which we will grant relief. The government may protect the integrity of the competitive system by terminating an improper award. See Allied Trailer Sales & Rental, B-224816.2, Nov. 5, 1986, 86-2 CPD ¶ 522. The fact that the terminated contractor acted in good faith and did not itself induce any error, or that it might suffer hardship as a result of the termination action does not preclude appropriate action to correct an improper award. Id.

Composite challenges the Army's new determination that Sikorsky was wrongfully excluded from the competition. This, in effect, challenges the Army's affirmative determination of Sikorsky's responsibility. Our Office will not review an agency's affirmative responsibility determination, absent a showing of possible fraud or bad faith or that definitive responsibility criteria have been misapplied. See Louisville Cooler Mfg. Co., B-243546, June 13, 1991, 91-1 CPD ¶ 568. Composite has made no such allegations.

The protest is dismissed.


James A. Spangenberg
Assistant General Counsel