

01663

DECISION



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

FILE: B-188591

DATE: April 6, 1977

MATTER OF: Bromfield Corporation

*KRASKER
P.L. I.*

DIGEST:

1. Termination of a ship overhaul contract for default is matter of contract administration for resolution by contracting agency over which GAO has no jurisdiction.
2. Where protest against transportation and storage contract, which was issued as result of default termination of protester's overhaul contract, is based solely upon protester's belief that default termination was improper, jurisdiction is declined, since resolution of protest is wholly dependent upon resolution of factual dispute which must be decided under administrative remedy in contract.

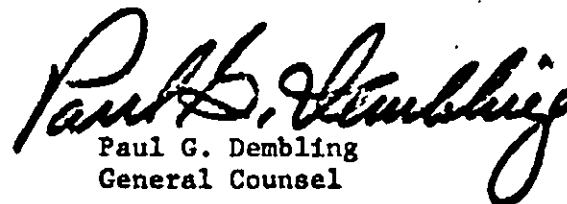
The Bromfield Corporation (Bromfield) protests two related actions by the Department of the Navy, Shipbuilding Conversion Repairs, Boston, Massachusetts. The first action is the Navy's termination for default of Bromfield's contract N62794-C-0026 for the overhaul of four LCM(8) vessels. The second protested action is directed against the issuance of invitation for bids SSB77-009 for the removal and storage of the four LCM(8)'s from Bromfield's facility subsequent to the default termination.

It is clear from Bromfield's correspondence that the basis for the second protested action is predicated wholly upon its disagreement with the default termination. For example; the reasons advanced as the protest bases all related to Bromfield's belief that the default termination was improper due to preferential treatment accorded other firms performing the same overhaul work by way of contract modification increasing the contract price. Similar modifications were denied Bromfield, thereby allegedly creating an undue financial burden, ostensibly giving rise to the default action.

B-188591

The question whether a contract should be terminated is a matter of contract administration and, therefore, a function of the contracting activity. National Flooring Company, B-183844, July 31, 1975, 75-2 CPD 71. Further, disputes as to factual matters arising under the contract must be resolved in accordance with the administrative procedure set out in the disputes clause of the contract. Our Office has no jurisdiction to consider such matters. Precision Service & Sales Co., B-186139, April 16, 1976, 76-1 CPD 263.

Therefore, we must decline to consider the merits of Bromfield's protest on both Navy actions. Clearly, the protest against the default termination is outside our jurisdiction. Also, since the sole basis of the protest against the award of the contract to remove the vessels from Bromfield's yard and store them relates wholly to Bromfield's dispute as to the appropriateness of the default termination, we are similarly precluded from considering its merits. In order to dispose of the protest of the removal and storage contract, the dispute concerning the default termination must first be resolved. However, that is a matter to be pursued under the remedy afforded in the Disputes clause in the contract, not in our Office.


Paul G. Dembling
General Counsel