

DOCUMENT RESUME

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[Defense Subcontract for Machine Tools to Mitsubishi Corporation]. PSAD-78-91; B-191079. April 5, 1979. Released April 12, 1978. 2 pp.

Report to Rep. Bill Gradison; by Richard W. Gutmann, Director, Procurement and Systems Acquisition Div.

Issue Area: Federal Procurement of Goods and Services (1900).  
Contact: Procurement and Systems Acquisition Div.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of Defense; Department of the Army; Android Corp.; Mitsubishi International Corp.; Carlton Machine Tool Co.; Chrysler Corp.

Congressional Relevance: Rep. Bill Gradison.

Authority: Buy American Act. A.S.P.R. 3-805.3.

The Chrysler Corporation, under a contract with the Department of the Army, awarded a subcontract for a tank turret machining system to the Android Corporation and a Japanese firm, Mitsubishi International Corporation. Carlton Machine Tool Company's bid was approximately \$200,000 more than the Android/Mitsubishi bid after adjustments in accordance with the Buy American Act. The contracting practices and procedures used by prime contractors of the Government are generally not subject to the statutory and regulatory requirements which govern direct procurement by a Federal agency. However, a basic principle prohibits the exposure of the lowest price to competing offerors in order to provide them with the opportunity to match the lower bid. Therefore, it would not have been proper for Chrysler to have permitted Carlton to lower its bid in order to obtain the subcontract. Regarding questions about Android's financing, Chrysler is responsible to the Army for the performance of the prime contract and for the performance of the subcontractors it selected. Although Chrysler may own 15% of Mitsubishi, there is no regulation or contract provision prohibiting the award of a subcontract to a company partially owned by the prime contractor as long as adequate price competition is maintained. (RRS)

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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

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4/24/78

PROCUREMENT AND SYSTEMS  
ACQUISITION DIVISION

B-191(79

April 5, 1978

The Honorable Bill Gradison  
House of Representatives

Dear Mr. Gradison:

Your January 6, 1978, letter contained some questions concerning the award of a subcontract by the Chrysler Corporation. The subcontract was awarded after price competition and was for a tank turret machining system under a Chrysler contract with the Department of the Army. The subcontract will be performed by the Android Corporation and a Japanese firm, Mitsubishi International Corporation. As agreed with your staff, we have limited our work to developing information needed to briefly respond to your questions. Also, we advised your office that Carlton Machine Tool Company, a competitor for the subcontract, withdrew the bid protest it had filed with our office.

Your calculations indicate that Carlton's bid was approximately \$200,000 more than the Android/Mitsubishi bid after adjusting the latter in accordance with provisions of the Buy-American Act. You asked whether Carlton would be entitled to the award if it was willing to cut its price by an appropriate amount. In this regard, the contracting practices and procedures employed by prime contractors of the United States are generally not subject to the statutory and regulatory requirements which would govern direct procurement by a Federal agency. Such contractors are, however, expected to follow certain basic principles of the Federal procurement law. One such principle prohibits the exposure of the lowest price to competing offerors in order to provide them the opportunity to match the lower price. (See Armed Services Procurement Regulation 3-805.3(c), (1976).) Therefore, we do not believe it would have been proper for Chrysler to have permitted Carlton to lower its price.

PSAD-78-91  
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You asked if a preaward survey of this subcontract would have disclosed to the Army that Android is weakly financed and has an unstable credit rating. Preaward surveys are usually performed on prime contractors and not on subcontractors. Chrysler is responsible to the Army for the performance on the prime contract and for the performance of the subcontractors it selects.

Also, you indicated there may be a possible conflict of interest since Chrysler may own 15 percent of Mitsubishi. We are not aware of any regulation or contract provision which prohibits the award of a subcontract to a company partially owned by the prime contractor as long as adequate price competition is obtained.

We hope this information satisfies your needs. If we can be of further assistance, please let us know. As agreed with your staff, no further distribution of this report will be made until 7 days from the date of the report. Unless you publicly announce its contents earlier or notify us otherwise, at that time we will release the report to interested parties.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "R. W. Gutmann".

R. W. Gutmann  
Director