

DECISION



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

FILE: B-187087

DATE: September 20, 1976

MATTER OF: Connelly Containers, Inc.

61074
98009

DIGEST:

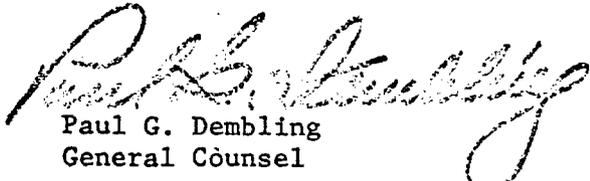
Protests against affirmative determinations of responsibility are no longer subject to review except in cases of fraud or misapplication of definitive responsibility criteria set forth in solicitation.

Connelly Containers, Inc., protests any award to Owens-Illinois, Inc., Forest Products Division, of a contract for triple-wall, corrugated, fiberboard boxes under invitation for bids No. CHN-FT-76-074, issued by the Federal Supply Service, General Services Administration, Chicago. The protester states that Owens-Illinois will not be able to perform in accordance with the invitation specifications and, consequently, that the firm should not be considered for contract award.

We are advised that the contracting officer has found Owens-Illinois to be a responsible bidder, partly because that firm has stated that it can meet the specifications without deviation and that it realizes a failure to do so will result in a termination of the contract for default. Accordingly, award to Owens-Illinois is proposed.

Our Office has discontinued the practice of reviewing bid protests involving a contracting officer's affirmative determination of the responsibility of a bidder except in cases involving actions by procurement officials which are tantamount to fraud, or where the solicitation contains definitive responsibility criteria which allegedly have not been applied. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Caltex Engineering Co., B-186525, June 2, 1976, 76-1 CPD 355. Neither of these two exceptions have been alleged or demonstrated.

Accordingly, the protest is not for consideration.


Paul G. Dembling
General Counsel