

**DECISION**



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

61480

FILE: B-187312

DATE: September 14, 1976

98042

MATTER OF: Capitol Waste Systems, Incorporated; Baltimore and Associates Environmental Services

**DIGEST:**

GAO does not review protests against affirmative determinations of responsibility except in cases of fraud or misapplication of definitive responsibility criteria set forth in solicitation.

Capitol Waste Systems, Incorporated, and Baltimore and Associates Environmental Services protest the award of contract No. N62477-76-C-1455 by the Naval Research Laboratory to the Econo Waste Trash Company on the basis that the contractor will not be able to perform the contract since it is not financially responsible and since it does not possess the necessary equipment. The contracting officer determined, we are advised, the contractor to be responsible as to credit and capacity.

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 nor demonstrated.

Accordingly, the protests are not for consideration.

*Paul G. Dembling*  
Paul G. Dembling  
General Counsel