

DECISION



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

60796

FILE: B-186283

DATE: April 23, 1976

99025

MATTER OF: Aerial Machine & Tool Corporation

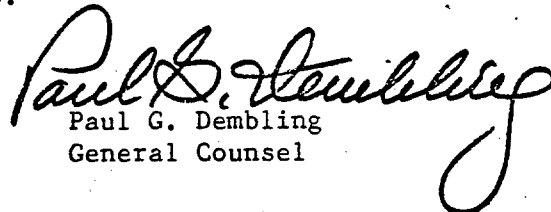
DIGEST:

Protest that contractor is nonresponsible because of inability to meet delivery schedule will not be considered since practice of reviewing protests against contracting officer's affirmative responsibility determination has been discontinued, except for actions by procurement officials which are tantamount to fraud.

Aerial Machine & Tool Corporation protests award of a contract to Z.A.N. Machine Company (Z.A.N.) under solicitation No. DAAJ01-76-B-0283 (PlB). The basis for the protest is the allegation that Z.A.N. cannot meet the Government delivery requirements, an issue involving the responsibility of the bidder.

Our Office has discontinued the practice of reviewing protests involving a contracting officer's affirmative determination of the responsibility of a contractor, since the determination is largely within the discretion of the procurement officials who must bear any difficulties experienced by reason of a contractor's nonresponsibility. If the contracting officer finds the contractor responsible, we do not believe the finding should be disturbed except for actions by procurement officials which are tantamount to fraud. United Hatters, Cap and Millinery Workers International Union, 53 Comp. Gen. 931 (1974).

Since the protest does not contain an allegation of fraud, we must decline to consider the matter on the merits. B-183917, June 26, 1975, 75-2 CPD 16.


Paul G. Dembling
General Counsel