

DECISION



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

60434

FILE: B-185372

DATE: January 27, 1976

MATTER OF: Shiffer Industrial Equipment, Inc.

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DIGEST:

Protest alleging bidder is not responsible because it cannot possibly perform contract within its bid price is not for consideration since GAO does not review protests involving affirmative determinations of responsibility, except where fraud is alleged or where definitive responsibility criteria allegedly have not been applied.

Shiffer Industrial Equipment, Inc. has protested against the award of a contract to the Roach Manufacturing Company under invitation for bids No. N00600-76-B-0003 issued by the United States Navy. The basis of Shiffer's protest is that Roach's bid price is so low that it could not possibly perform the contract as required. Essentially, Shiffer questions the responsibility of Roach.

This Office has discontinued its review of protests involving affirmative determination of responsibility unless fraud is alleged on the part of the procuring officials or the solicitation contained definitive responsibility criteria which allegedly have not been applied. See Central Metal Products, 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Eastern Home Builders and Developers, Inc., B-182218, November 29, 1974, 74-2 CPD 302; Sanders Associates, Inc., B-183019, January 27, 1975, 75-1 CPD 55. Although we will consider protests involving determinations of nonresponsibility to provide assurance against the arbitrary rejection of bids, affirmative determinations are based in large measure on subjective judgments which are largely within the discretion of procuring officials who must suffer any difficulties experienced by reason of a contractor's inability to perform.

Accordingly, the protest is not for consideration.

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General Counsel