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P. Klemm
Proc I

DECISION



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

FILE: B-188190

DATE: April 6, 1977

MATTER OF: Mule Battery Company, Inc.

DIGEST:

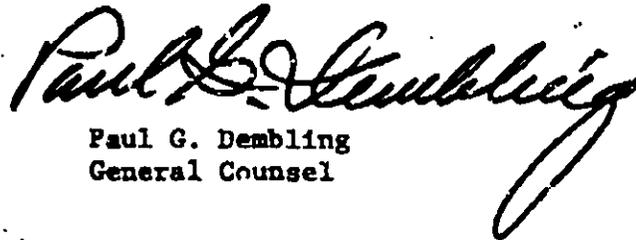
GAC will not review affirmative determinations of responsibility absent an allegation of fraud or misapplication of definitive responsibility criteria.

Mule Battery Company, Inc. (Mule), protests the award of a contract by the Defense Logistics Agency (DLA) to Westwood Wholesale Electric Company, Inc. (Westwood), under invitation for bids DSA-400-77-B-0581, for emergency and auxiliary lighting fixtures. Mule contends that at the price offered, Westwood cannot supply lighting fixtures that meet Government specifications. In addition Mule contends, based upon the literature submitted by Westwood in connection with the protest, that Westwood does not intend to supply a conforming item.

DLA states that Westwood was the low responsive bidder and Mule is challenging its affirmative determination of Westwood's responsibility. DLA points out that our Office in Southern Sportswear Inc., B-186899, July 27, 1976, 76-2 CPD 86, and in numerous other decisions, has declined jurisdiction over such protests.

DLA's statement is generally correct. Our Office will not review affirmative determinations of responsibility absent an allegation of fraud or misapplication of definitive responsibility criteria, Southern Sportswear, *supra*, which has not been alleged here. Consequently, we will not consider Mule's protest.

With regard to the contention that Westwood does not intend to comply with the specifications, DLA notes that Westwood is obligated to perform in accordance therewith and it is taking appropriate action to insure compliance.


Paul G. Dembling
General Counsel