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R. Kamen
Proct. I.



DECISION

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

FILE: B-189950

DATE: October 28, 1977

MATTER OF: Leslie Brooks & Associates, Inc.

DIGEST:

Protest challenging contracting officer's affirmative determination of prospective contractor's responsibility will not be considered where fraud or misapplication of definitive responsibility criteria is not involved.

Leslie Brooks & Associates, Inc. (Leslie Brooks), protests the award of a contract by the Department of Health, Education, and Welfare to another offeror under RFP 105-77-6001. To be more specific, Leslie Brooks protests in substance that the awardee was not listed in the Tulsa telephone directory at the time the contract was awarded. Further, the awardee is basically a certified public accountant with little background in the field of management consulting. Leslie Brooks, in effect, challenges the contracting officer's affirmative determination of an offeror's responsibility.

As a general rule, we do not consider protests concerning determinations that particular prospective contractors are responsible. Affirmative determinations of responsibility are largely a matter of subjective judgment within the sound discretion of contracting agency officials, who must bear the brunt of any difficulties experienced by reason of a contractor's inability to perform. We will review such determinations only in certain limited circumstances--if there is a showing of fraud by the agency, or where it is alleged that definitive responsibility criteria set forth in the solicitation were not properly applied by the agency.

Since no showing of fraud or alleged misapplication of definitive responsibility criteria is involved in the present case, the protestor's objection to the affirmative determination of responsibility will not be considered. Southern Methodist University, B-187737, April 27, 1977, 77-1 CPD 289.

Paul G. Dembling
Paul G. Dembling
General Counsel