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M. H. Hall;
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DECISION



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

FILE: B-190916

DATE: June 22, 1978

**MATTER OF: Contra Costa Electric, Inc. -
Reconsideration**

DIGEST:

Where it is clear that contract provision that contractor shall perform 20 percent of work with own organization is not definitive responsibility criterion, GAO is not required to decide what result would be if it was.

Contra Costa Electric, Inc. (Contra Costa), has requested reconsideration of our decision in Contra Costa Electric, Inc., B-190916, April 5, 1978, 78-1 CPD 268, in which we denied in part and dismissed in part its protest under invitation for bids (IFB) No. N62474-76-B-7162, issued by the Naval Facilities Engineering Command.

Specifically, Contra Costa questioned the responsiveness of the low bidder's (The Geggatt Company) bid and the low bidder's ability to perform, with its own organization, 20 percent of the work to be performed under the proposed contract. In our decision, we found that The Geggatt Company's bid was responsive and denied this portion of Contra Costa's protest. With respect to the responsibility issue, we held that, since the contract requirement that the contractor shall perform 20 percent of the work with its own organization was not a definitive responsibility criterion, the issue did not come within any exception of our policy not to review protests against affirmative determinations of responsibility. Consequently, we dismissed this aspect of Contra Costa's protest.

Contra Costa requested reconsideration on the basis that we have reviewed the application of performance standards even where they have not been definitive responsibility criteria. Contra Costa has cited decisions (Commercial Envelope Manufacturing Company, Inc., B-186042,

April 14, 1976, 76-1 CPD 254; Service Enterprises, Inc., B-186786, September 20, 1976, 76-2 CPD 257; Bernard Cap Company, Inc., B-188585, August 10, 1977, 77-2 CPD 108) in which we indicated that if we assumed that the provisions involved in those cases constituted definitive responsibility criteria, the requirements were met. However, in the Contra Costa case, it is clear that the provision is not a definitive responsibility criterion and we are not required to decide what the result would be if it was.

Accordingly, our prior decision is affirmed.

R. J. K. H.
Acting Comptroller General
of the United States