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**DECISION**

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

FILE: B-193660

DATE: January 24, 1979

MATTER OF: Anker Kolen Maatschappij B.V. and  
Scheepvaart en Steenkolen Maatschappij  
B.V.

DIGEST:

[Protesters Challenge Responsibility of Prospective Contractor]

Where protesters are challenging responsibility of prospective contractor because subcontractor had participated in prior contract where prime contractor was unable to properly perform contract, our Office will not review unless fraud is shown on part of procuring officials or solicitation contains definitive responsibility criteria which allegedly have not been applied.

Anker Kolen Maatschappij B.V. and Scheepvaart en Steenkolen Maatschappij B.V. (Anker and Scheepvaart) protest award of a contract to Leidel, a subsidiary of Rheinbraun Handel, by the Department of the Army under solicitation No. DLA600-78-R-0625 for anthracite coal.

Anker and Scheepvaart question Leidel's responsibility as a bidder because its subcontractor, F.A. Potts, Inc., participated in a contract in which the prime contractor was unable to properly perform the contract and was suspended from bidding on Government contracts. This matter essentially concerns the responsibility of Leidel's subcontractor which in turn would affect the responsibility of Leidel.

This Office no longer reviews protests against affirmative determinations of responsibility, unless either fraud is shown on the part of the procuring officials or the solicitation contains definitive

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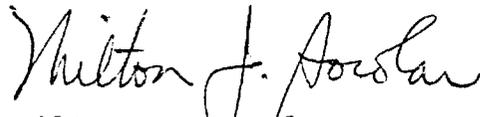
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responsibility criteria which allegedly have not been applied. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Oregon Wilbert Vault Corporation, B-191000, January 18, 1978, 78-1 CPD 49. Neither exception is present here.

Therefore, the protest is dismissed.

However, the responsibility question also has been referred by the protester to the contracting officer who will take such action as is appropriate.



Milton J. Socolar  
General Counsel