

**DECISION**



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

9581

FILE: B-19 3859

DATE: March 29, 1979

MATTER OF: Associated Electronics, Inc.

DIGEST:

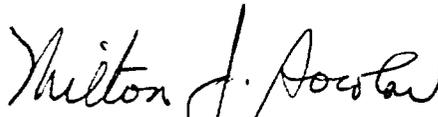
[Protest of affirmative determination of low bidder's responsibility is not reviewed by *Reviewable*] GAO absent allegations of fraud or mishandling of definitive responsibility criteria set forth in solicitation.

Associated Electronics, Inc. (AEI) protests the award of a contract to Border Electronics Services, Inc. (Border), the apparent low bidder, under invitation for bids (IFB) No. DABT 51-79-B-0008, issued by the United States Army (Army), Fort Bliss, Texas, for preventive electronic maintenance service of Panasonic video reproducers. AEI contends that Border should not be awarded the contract because it has not performed prior similar contracts satisfactorily or in accordance with specification requirements.

Any award made to Border will necessarily involve an affirmative determination of that firm's responsibility under Defense Acquisition Regulation § 1-904.1 (1976 ed.). AEI's protest in effect challenges any such determination. Our Office, however, does not review protests which question affirmative determinations of responsibility unless either fraud is alleged on the part of the procuring official or the solicitation contains definitive responsibility criteria which allegedly have not been applied. See Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Yardney Electric Corporation, 54 Comp. Gen. 509 (1974), 74-2 CPD 376. Neither exception appears applicable here. Therefore, the protest is dismissed.

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However, in view of the allegations concerning the Government's "paying \* \* \* for services not performed," we are bringing this matter to the attention of the Secretary of the Army.

  
Milton J. Socolar  
General Counsel