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**DECISION**



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

**FILE: B - 206758**

**DATE: March 25, 1982**

**MATTER OF: D & J Maintenance Company, Inc.**

**DIGEST:**

Protest as to whether bidders are capable of satisfactorily performing services called for by contract involves question of responsibility, the contracting officer's affirmative determination of which GAO will not review except in circumstances not present here.

D & J Maintenance Company, Inc. (D & J) protests award of a contract under Invitation for Bids (IFB) No. CI-82-E005, issued by the Environmental Protection Agency (EPA) for the renovation of the basement of a building.

D & J protests any award under the IFB "until the Government \* \* \* confirms that the apparent low \* \* \* bids reflect the proper method for removal of contaminated asbestos" and that the bidders are aware of the "requirement involved."

D & J's protest raises questions pertaining to bidder responsibility, that is, whether bidders are capable of satisfactorily performing the services called for by the contract. An affirmative determination that a bidder is responsible must be made by the contracting officer prior to award. Defense Acquisition Regulation §1-904.1 (1976 ed.). In light of the essentially subjective business judgments involved, the General Accounting Office does not review affirmative determinations of responsibility, unless there is a showing of fraud on the part of the Government or an

allegation of failure to apply definitive responsibility criteria. Colorado Research and Prediction Laboratory, Inc., B-190755, March 5, 1981, 81-1 CPD 170. Neither exception appears to be applicable here.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel