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DECISION



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

FILE: B-208259

DATE: August 23, 1982

MATTER OF: Connelly Containers, Inc.

DIGEST:

Protest based on contention that low bidder is not capable of supplying required goods in accordance with solicitation's specifications is dismissed since it concerns challenge to agency's affirmative determination of responsibility which is not matter for review by GAO except in circumstances not present here.

Connelly Containers, Inc. (Connelly), protests the anticipated award of a contract to the low bidder, Arvco Container Corporation (Arvco), under General Services Administration (GSA) solicitation No. 5FCB-08-82-065. Connelly contends that Arvco is ineligible for award because Arvco is not a supplier or regular manufacturer of the triple-wall shipping boxes called for in the solicitation and, therefore, is not capable of producing the boxes in accord with the specification requirements. Accordingly, Connelly argues that Arvco must be found to be nonresponsible.

GSA has advised our Office that it has made a determination that Arvco is responsible but, in view of the charges made by Connelly, it is reexamining its affirmative determination. GSA has urged us to dismiss this protest because of lack of jurisdiction.

This Office does not review protests against affirmative determinations of responsibility, unless fraud is alleged on the part of the contracting officer 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; Data Test Corporation, 54 Comp. Gen. 499 (1974) 74-2 CPD 365, aff'd, 54 Comp. Gen. 715 (1975), 75-1 CPD 138. Here, there is no allegation that the

responsibility determination was the result of fraud or that definitive criteria have not been applied. See Angler's Company, Ltd., B-190856, January 4, 1978, 78-1 CPD 3.

Accordingly, the protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel