

**DECISION**



24722  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE:** B-211024

**DATE:** April 4, 1983

**MATTER OF:** VSI Corporation, Aerospace Group

**DIGEST:**

1. Whether a bidder is capable of furnishing the required item if the bid is accepted concerns the firm's responsibility, and GAO will not review a contracting officer's determination that a bidder is responsible except in limited circumstances.
2. The exclusive remedy for alleged patent infringement by a Government contractor is a suit for damages in the Claims Court.

VSI Corporation, Aerospace Group protests the Defense Logistics Agency's award of a contract to Orange Precision Parts under solicitation No. 83-B-0069 for structural blind bolts. VSI alleges that Orange has neither the capability nor the facilities to manufacture the item. VSI also alleges that the blind bolt is covered by a United States patent, and that the patent holder has not licensed Orange to manufacture it.

We dismiss the protest.

VSI's allegation that Orange is not capable of furnishing the blind bolts involves Orange's responsibility. See John Baker Janitorial, Inc., B-206292, February 22, 1982, 82-1 CPD 157. Before awarding the contract to Orange, the contracting officer must find the firm responsible, Defense Acquisition Regulation § 1-902 (1976 ed.), and our Office does not review a contracting officer's affirmative responsibility determination absent a showing of fraud by procuring officials or of a failure to apply definitive responsibility criteria that were stated in the solicitation. Kenilworth Trash Company, B-207314, May 18, 1982, 82-1 CPD 480. VSI has not suggested that either situation applies here.

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Concerning VSI's other basis for protest, the exclusive remedy for patent infringement by a Government contractor is a suit against the Government in the United States Claims Court. This Office thus does not consider allegations of possible patent infringements. See Artais, Inc., B-209159, October 21, 1982, 82-2 CPD 357.

The protest is dismissed.

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