

DECISION



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

FILE: B-212357

DATE: August 2, 1983

MATTER OF: Poseidon Industries, Ltd.

DIGEST:

Protest against award of a contract because certain officers of firm were also officers of a corporation which was previously convicted of fraud is dismissed since it relates to a procuring official's affirmative determination of responsibility which GAO does not review, where, as here, the protester fails to show fraud or that the solicitation contains definitive responsibility criteria which were not applied.

Poseidon Industries, Ltd., protests the award of a contract to American Oceanic Coating Corporation under solicitation No. N00189-83-R-0012, issued by the Department of the Navy. Poseidon contends that American should have been found nonresponsive because certain officers of the corporation were employed previously by a corporation which was convicted of fraud for work done under similar contracts.

Poseidon's protest questions the integrity of American and, as such, relates to responsibility rather than responsiveness. 51 Comp. Gen. 703 (1972); Mica, Inc., B-208848.5, September 23, 1982, 82-2 CPD 264. Procuring officials determine the responsibility of bidders prior to award. Our Office does not review protests against affirmative determinations of responsibility unless the protester shows either fraud on the part of the procuring officials or that the solicitation contained definitive responsibility criteria which allegedly have not been applied. National Fence Builders, Inc., October 13, 1982, 82-2 CPD 330. The protester has not shown that either exception is applicable here.

Accordingly, the protest is dismissed.

F. H. Barclay, Jr.
Per Harry R. Van Cleve
Acting General Counsel