

**DECISION**



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

**FILE:** B-214980

**DATE:** May 2, 1984

**MATTER OF:** Leslie Company

**DIGEST:**

Protest asserting that solicitation should be restrictively drawn to place protester in a sole-source position is inappropriate for review under GAO bid protest function, since it conflicts with objective of that function, specifically, to insure attainment of full and free competition.

Leslie Company protests the award of a contract to any firm other than itself under request for proposals (RFP) No. N00406-84-R-0306, issued by the Naval Supply Center, Bremerton, Washington for ship overhaul services.

The RFP, while specifying Leslie replacement parts for at least some of the repair work, was issued as a fully competitive negotiated solicitation. The protester essentially makes two arguments: (1) that the overhaul services should be procured from Leslie on a sole-source basis as the only firm capable of fulfilling all the specification requirements (Leslie allegedly will not sell its parts to other firms and also alone possesses the current specifications which are proprietary); and (2) that no other firm has the ability to properly perform the contract. We will not consider these issues.

The first argument, that the Navy should have restricted the competition to only Leslie without requesting proposals from other firms, is inconsistent with the objective of our bid protest function, which is to ensure attainment of the statutorily-mandated full and free competition. Whether a solicitation ought to be restricted to a sole supplier for valid technical or other reasons is ordinarily of primary concern to procurement personnel and user activities since it is they who must suffer any deficiencies arising from substandard contract performance. When an agency determines that a less restrictive solicitation will meet the government's needs, however, we will not

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consider a complaint that a more restrictive or noncompetitive approval should have been used unless there is a showing of possible fraud or intentional misconduct. See Miltope Corporation--Reconsideration, B-188342, June 9, 1977, 77-1 CPD 417. Therefore, since neither fraud nor intentional misconduct on the part of procuring officials has been alleged, we will not intervene with the Navy to require a more restrictive solicitation.

To the extent Leslie's protest challenges the ability of any other firm to perform the overhaul services and therefore, by implication, it questions the contracting officer's affirmative determination of any prospective awardee's responsibility. However, it is the policy of this Office not to review protests which question these determinations unless there is a showing of possible fraud or bad faith on the part of the procuring officials or that the solicitation contains definitive responsibility criteria which the procuring officials failed to apply. Metermod Instrument Corporation, B-211907, April 19, 1984, 84-1 CPD \_\_\_\_\_. Neither exception is applicable here.

The protest is dismissed.

*Harry R. Van Cleve*

Harry R. Van Cleve  
Acting General Counsel