



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter Of: Medtran Physicians Dictation Services, Inc.

File No.: B-259192

Date: December 2, 1994

DECISION

Medtran Physicians Dictation Services, Inc. protests the award of a contract to C&T Transcription by the Department of Veteran Affairs (VA) under invitation for bids No. 637-3-95.

Medtran alleges that C&T is unable to perform the contract and that the agency is acting unreasonably in providing assistance to C&T. This allegation concerns VA's administration of the contract, a matter which is not subject to review under the Bid Protest Regulations. See 4 C.F.R. § 21.3(m)(1).

To the extent Medtran complains that the agency should not have awarded the contract to C&T because of C&T's alleged inability to perform, we also will not consider it because it involves a challenge to the responsibility of the awardee, that is, its ability and qualifications to perform the contract. A determination that a bidder or offeror is capable of performing a contract is based, in large measure, on subjective judgments which generally are not susceptible to reasoned review. Thus, an agency's affirmative determination of a contractor's responsibility will not be reviewed by our Office absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied. 4 C.F.R. § 21.3(m)(5); King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD ¶ 177. Where, as here, there is no showing of possible fraud or bad faith, or that definitive responsibility criteria have been misapplied, we have no basis to review the protest.

The protest is dismissed.

Ronald Berger
Associate General Counsel