



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Mt. Valley Farms & Lumber Products, Inc.

File: B-262223

Date: August 9, 1995

DECISION

Mt. Valley Farms & Lumber Products, Inc. protests the award of a contract to Treen Box and Pallet Corp. by the Defense Logistics Agency under solicitation No. SPO440-95-R-0655. Mt. Valley contends that Treen Box is not a responsible contractor and that Treen Box will not comply with equal opportunity and affirmative action requirements.

We dismiss the protest because a protester's challenge to the awardee's ability to perform the contract is generally not reviewed by our Office.

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.

Ronald Berger

Ronald Berger
Associate General Counsel

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