

Becker



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** American Biomedical Instrumentation, Inc.

**File:** B-266340

**Date:** October 4, 1995

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### DECISION

American Biomedical Instrumentation, Inc. protests the award of a contract by the Department of Veteran Affairs under invitation for bids No. M3-Q2-95. American contends that the awardee does not have the capability to perform the contract.

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.

The protester's assertions involve 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.

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