

DECISION



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

4096-3

FILE: B-181756

DATE: July 19, 1974

MATTER OF: General Dynamics

[Protest Alleging Award]
DIGEST: Protest involving allegation that offeror proposed for award by agency is not capable of performing contract work in timely fashion, will not be considered since allegation relates solely to responsibility of offeror and GAO has discontinued practice of reviewing bid protests of contracting officer's affirmative responsibility determination, except for actions by procuring officials which are tantamount to fraud. See 53 Comp. Gen. ___, B-177512, June 7, 1974.

By letter of July 8, 1974, General Dynamics protests against the award of a contract to Edmac Associates, Inc. (Edmac), under solicitation No. N00019-74-R-0070 issued by Naval Air Systems Command (NavAir) for twelve AN/ARR-72 Sonobuoy Receiver Systems.

Two firms submitted proposals in response to the subject solicitation. General Dynamics' proposal was rejected because it was submitted late. Edmac's proposal was deemed technically acceptable. Furthermore, we have been advised that the contracting officer has determined that Edmac is a responsible offeror.

General Dynamics contends that Edmac "cannot perform the work called for by the said solicitation in a timely fashion." Accordingly, General Dynamics suggests that the present solicitation be canceled and that the items be resolicited. In support of its allegation that Edmac is not capable of timely performance, General Dynamics refers to the determination made by NavAir in connection with the 1973 procurement of the same item. At that time, NavAir concluded that General Dynamics was the only firm


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which could assure timely delivery of the item. General Dynamics notes that in B-178179, July 27, 1973, this Office denied a protest by Edmac against that determination, and it states that conditions leading to NavAir's 1973 determination have not changed and that, therefore, Edmac must still be unable to make timely delivery of the items.

In essence the protester questions the Navy's affirmative determination of Edmac's responsibility in alleging that it cannot perform the contract work in a timely fashion. However, this Office has discontinued its prior practice of reviewing protests involving a contracting officer's affirmative determination of responsibility of a prospective contractor. See 53 Comp. Gen. ____, B-177512, June 7, 1974. The determination of a proposed contractor's responsibility is largely within the discretion of the contracting officer. The contracting activity must handle the day-to-day administration of the contract and bear that brunt of any difficulties experienced by reason of the contractor's lack of ability. If pursuant to the applicable regulations the contracting officer finds the proposed contractor responsible, we do not believe the finding should be disturbed except for actions by procuring officials which are tantamount to fraud.

Accordingly, as no fraud has been alleged or demonstrated, we must decline to further consider the matter.


Deputy Comptroller General
of the United States