

**DECISION**

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

60077

FILE: B-172531

DATE: October 22, 1975

MATTER OF: Artem Company

97799

**DIGEST:**

Protest against affirmative determinations of responsibility will not be reviewed by this Office except for actions which are tantamount to fraud or misapplication of definitive responsibility criteria contained in solicitation.

Artem Company (Artem) has protested against award of a contract for "Maintenance of Special Test Facilities" made pursuant to solicitation No. F2965176-09001 by the Department of the Air Force, Holloman Air Force Base, New Mexico.

Artem questions the ability of the Liberty Maintenance Corporation, the successful low bidder, to perform the contract satisfactorily because there is allegedly a potential loss on certain items at the price bid. The protest involves, in effect, the contention that Liberty Maintenance Corporation is not a responsible prospective contractor for this procurement.

This Office does not review protests against affirmative determinations of responsibility, unless either fraud is alleged on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. See Central Metal Products, Inc., 54 Comp. Gen. 66 (1974). Affirmative determinations are based in large measure on subjective judgments which are largely within the discretion of procuring officials who must suffer any difficulties experienced by reason of a contractor's inability to perform. However, we will continue to consider protests against determinations of nonresponsibility to provide assurance against the arbitrary rejection of bids.

Accordingly, we must decline to consider the matter.

*Paul G. Dembling*  
Paul G. Dembling  
General Counsel