

01331

*Paul G. Dembling  
Page 11*

**DECISION**



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

FILE: B-187816

DATE: November 26, 1976

MATTER OF: Nartron Corporation

**DIGEST:**

Protests concerning affirmative determinations of responsibility are no longer reviewed by GAO, except for reasons not alleged in this case.

Nartron Corporation (Nartron) protests the contract award to D. C. Electronics, Inc. under Army Tank-Automotive Command (TACOM) solicitation No. LAEO7-77-B-3172, on the basis that the firm lacks responsibility.

This Office no longer reviews protests concerning affirmative determinations of responsibility, absent a showing of fraud on the part of contracting officials, or unless the solicitation includes definitive responsibility criteria which it is claimed were not applied. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64. In this connection, the protester deals with the Government's delivery and quality requirements as definitive responsibility criteria which, it argues, the agency has not applied to D. C. Electronics. Such requirements, however, are requirements to be met during contract performance rather than special qualifications which bidders must satisfy prior to contract award. Moreover, the protester's allegation that D. C. Electronics has furnished defective parts under prior Government contracts does not show fraud on the part of procuring officials. Furthermore, we are advised by the Army that definitive responsibility criteria were not utilized in the subject solicitation while we continue to consider protests involving negative determinations of protesters' responsibility in order to provide assurance against the arbitrary rejection of bids. affirmative determinations are based in large measure on subjective judgments which are largely within the discretion of procuring officials who must suffer any difficulties resulting by reason of a contractor's inability to perform.

Accordingly, this protest is dismissed.

*Milton Aoclar*  
for Paul G. Dembling  
General Counsel