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PL-11

Mr. Donohue

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D. C. 20548

[Protest Alleging That Proposed Awardee Is Not Capable of Meeting Solicitation Requirements]

FILE: B-198802

DATE: May 22, 1980

MATTER OF: X-Tyal International Corp.

4690

DIGEST:

Whether bidder is capable of meeting requirements of solicitation is matter of bidder responsibility, affirmative determination of which GAO does not review unless either fraud is alleged on the part of procuring officials or solicitation contains definitive responsibility criteria which allegedly have not been applied.

962 00378 X-Tyal International Corporation (X-Tyal) protests the possible award of a contract to Minden Mills under solicitation number DLA700-80-B-1158 issued by the Defense Logistics Agency for the fabrication of a collapsible 500 gallon water storage tank. X-Tyal contends that Minden Mills, the apparent low bidder, lacks the required assets and technical competency to successfully perform the contract at the bid price. 4691

Whether Minden Mills can perform in accordance with the requirements of the solicitation is a matter of its responsibility as a prospective contractor. A responsibility determination must be made by the contracting officer prior to award. Defense Acquisition Regulation § 2-407.3 (1976 ed.). Our Office generally will not review a protest of an affirmative determination of responsibility, which is largely a business judgment, unless either fraud is alleged on the part of the procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Aerosonic Corporation, B-197469, January 19, 1979, 79-1 CPD 35. In the present case, there has been no allegation of either.

The protest is dismissed.

Harry R. Van Cleave
for Milton J. Socolar
General Counsel

[Signature]

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