

**DECISION**



*Report  
118355*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

FILE: B-207232

DATE: May 10, 1982

MATTER OF: Kings Point Mfg. Co., Inc.

**DIGEST:**

Protest that the apparent low bidder is not capable of satisfactorily performing the contract is a matter of responsibility, the contracting officer's affirmative determination of which GAO will not review except in circumstances not present here.

Kings Point Mfg. Co., Inc. (Kings Point), protests the award of a contract to Mendon Mills under invitation for bids (IFB) DLA 700-82-B-0714, issued by the Defense Construction Supply Center.

Kings Point alleges that Mendon Mills, the apparent low bidder, should not be considered a responsible bidder because it cannot comply with the requirement for a "configuration 11-05 faucet."

Kings Point's ability to perform the contract concerns the firm's responsibility, that is, whether the bidder is capable of satisfactorily performing the work called for by the contract. An affirmative determination that a bidder is responsible must be made by the contracting officer prior to award. See Defense Acquisition Regulation § 1-904.1 (1976 ed.).

The General Accounting Office generally will not review a protest of an affirmative determination of responsibility, which is largely a business judgment, unless there is a showing of possible fraud or bad faith on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Bradford Dyeing Association, Inc., B-202241, March 6, 1981, 81-1 CPD 182; X-Tyal International Corp., B-198302, May 22, 1980, 80-1 CPD 355. Neither exception appears to exist here.

The protest is dismissed.

*Harry R. Van Cleve*  
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Acting General Counsel