

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548 27013

FILE: B-213809

DATE: December 12, 1983

MATTER OF: Aqua-Trol Corporation

DIGEST:

Protest questioning whether bidders will meet Buy American requirements involves a challenge to a determination that the bidder is responsible, which GAO does not review in the absence of a showing of possible fraud or that definitive responsibility criteria in solicitation were misapplied, circumstances not present here.

Aqua-Trol Corporation protests award of a contract for a lawn sprinkler system to the low bidder under solicitation No. 7PR-W-52303/F5/7SB which was issued by the General Services Administration. Aqua-Trol contends that the low bidder, Masback Industrial Supply, will not provide a domestic product despite the Buy American Act representations in Masback's bid.

We dismiss the protest.

Whether a bidder intends or will be able to comply with contract obligations, including the Buy American provisions of the contract, is a matter of responsibility. Before making an award, the contracting officer must make an affirmative determination of the bidder's responsibility. We do not review affirmative determinations of responsibility in the absence of a showing of possible fraud or that definitive responsibility criteria in the solicitation were misapplied, circumstances not present here. McCotter Motors, Inc., B-208176, July 19, 1982, 82-2 CPD 58. Moreover, whether, upon award of the contract, the contractor actually adheres to contractual requirements is a matter of contract administration, which we also do not consider under our Bid Protest Procedures, 4 C.F.R. Part 21 (1983). Nicolet Technology Corp., B-192895, September 28, 1978, 78-2 CPD 244. The

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protest procedure is reserved for considering whether an award or a proposed award of a contract complies with statutory, regulatory and other legal requirements, not with post award performance or administrative matters. Becker Instruments & Photographic Optics, B-185411, July 14, 1976, 76-2 CPD 43.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel