

*Konowitz*



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** St. Cloud Aviation of Alaska--Request for  
Reconsideration

**File:** B-225591.2

**Date:** January 16, 1987

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### **DIGEST**

Allegation that awardee lacks ability to perform contract concerns a bidder's responsibility, the affirmative determination of which is not considered by General Accounting Office except under limited circumstances not present here.

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### **DECISION**

St. Cloud Aviation of Alaska (St. Cloud) requests that we reconsider our dismissal of its protest against the award of a contract to Wick Air, Inc. (Wick), under solicitation No. 816-26 issued by the Department of the Interior. We affirm our prior dismissal.

The solicitation called for the repair of an aircraft. St. Cloud protested that Wick is not a responsible contractor because Wick does not have adequate equipment, personnel and facilities needed to perform the repairs. St. Cloud also challenged Wick's financial capability to perform the contract.

Prior to awarding the contract to Wick on December 9, 1986, the contracting officer determined Wick responsible. We dismissed St. Cloud's protest to this Office that Wick was improperly determined responsible since under our Bid Protest Regulations, 4 C.F.R. § 21.3(f)(5) (1986), affirmative determinations of responsibility are not reviewed by GAO absent a showing that contracting agency personnel may have acted in bad faith or that definitive responsibility criteria contained in the solicitation were not met. Neither exception had been alleged by the protester.

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In its request for reconsideration, St. Cloud essentially argues that we dismissed its protest prematurely because it intends to prove that Wick is not a responsible contractor based on information it expects to obtain through the Freedom of Information Act (FOIA) requests it filed with the Federal Aviation Administration and the Department of the Interior. With respect to our review of this protest, however, these FOIA requests are irrelevant because, as explained above, we will not review the contracting officer's affirmative responsibility determination on Wick except in circumstances not alleged here. See e.g. Webb Designs, Inc., B-222437, July 1, 1986, 86-2 C.P.D. ¶ 2; Reliability Sciences, Inc., B-212852, May 2, 1984, 84-1 C.P.D. ¶ 493.

Our prior dismissal is affirmed.

*for* *Seymour Efron*  
Harry R. Van Cleve  
General Counsel