



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter Of:** Santee Dock Builders  
**File No.:** B-259226  
**Date:** November 22, 1994

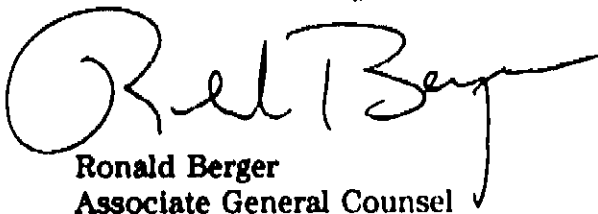
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### DECISION

Santee Dock Builders protests the award of a contract to Delta Export by the Department of Agriculture under solicitation No. SCS-25-GA-94. Delta, the low bidder, after receiving the award, was unable to obtain the necessary performance and payment bonds and was terminated for default. The agency then issued solicitation No. SCS-108-GA-95. Santee contends that Delta was not a responsible bidder and therefore Santee, the next low bidder, rather than Delta, should have been awarded the contract.

We dismiss the protest.

A determination that a bidder or offeror is capable of performing a contract is based, in large measure, on subjective judgments which generally are not susceptible to reasoned review. Thus, an agency's affirmative determination of a contractor's responsibility will not be reviewed by our Office absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied. 4 C.F.R. § 21.3(m)(5); King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD ¶ 177. No such showing has been made here. Moreover, while Santee suggests that no "affirmative determination of financial responsibility" was made, such a determination is implicit in the award to Delta.

  
Ronald Berger  
Associate General Counsel