

DECISION

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

FILE: B-211165

DATE: April 4, 1983

MATTER OF: D & M Fiberglass Services, Inc.

DIGEST:

Protest of contracting agency's affirmative determination of responsibility is dismissed since GAO does not review such determinations unless fraud on the part of the procuring officials is alleged or the solicitation contains definitive responsibility criteria which have been misapplied.

D & M Fiberglass Services, Inc., protests the award of a contract by the Naval Supply Center, Norfolk, Virginia, under request for quotation (RFQ) No. 83-Q-A0056. The contract was for the repair of a teflon gun port shield on the U.S.S. Richard E. Byrd. The protester alleges that the contractor receiving the award has not complied with paragraph 2.8(B) of the Quality Assurance Provisions in the RFQ, which states:

"The contractor, by submitting an offer on this solicitation, verifies that he has previously demonstrated his ability to accomplish the repairs required herein, to satisfy the settings of all safety devices and to accomplish tests required by the contract."

Whether the contractor has demonstrated its ability to perform the contract in accordance with its terms is a matter of the firm's responsibility, which must be determined in the affirmative by the contracting officer prior to award. Our Office will not review protests against affirmative determinations of responsibility unless either fraud on the part of the procuring officials is alleged or the solicitation contains definitive responsibility criteria which allegedly have been misapplied. Hybrid Abstracts, B-207083, May 24, 1982, 82-1 CPD 488. Neither exception is applicable here.

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The protest is dismissed.

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