

Lieberman  
118464

**DECISION**



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

FILE: B-207083

DATE: May 24, 1982

MATTER OF: Hybrid Abstracts

**DIGEST:**

1. GAO will not review protest against affirmative determination of responsibility absent allegation of fraud by procuring officials, or misapplication of definitive responsibility criteria contained in solicitation.
2. No legal basis exists to preclude contract award merely because low bidder submitted below-cost bid.
3. Question of whether an awardee fulfills its contractual obligations is a matter of contract administration which does not affect the validity of an award.

Hybrid Abstracts (Hybrid) protests the award of a contract to Tempo under invitation for bids (IFB) No. DAAHO3-82-B-0026, issued by the Department of the Army, Redstone Arsenal. Hybrid asserts that Tempo bid below cost with the intention of violating the contract requirements. Hybrid further asserts that, because of Tempo's deficient performance under prior Government contracts, it should have been found nonresponsible by the Army.

Regarding the allegation that since Tempo bid below cost it will not fulfill its contractual obligations, this is a matter of contract administration which does not relate to the propriety of the award. Contract administration is the function and responsibility of the procuring activity and our Office does not resolve such matters under our Bid Protest Procedures. Schmidt Engineering & Equipment Co., Ltd., B-198542, February 19, 1981, 81-1 CPD 108. Moreover, if a bidder has been found to be otherwise responsible, the fact that it may have submitted a below-cost bid does not constitute a legal basis for precluding or disturbing a contract award. Bowman Enterprises, Inc., B-194015, February 16, 1979, 79-1 CPD 121.

With respect to Tempo's alleged nonresponsibility, our Office does not review protests against affirmative determinations of responsibility unless fraud on the part of procuring officials is alleged, or the IFB contains definitive responsibility criteria which allegedly have been misapplied. Ira Gelber Food Services, Inc., B-196868, February 27, 1980, 80-1 CPD 161; Bowman Enterprises, Inc., supra. Neither exception applies in this case.

We dismiss the protest.

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