

DECISION

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

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FILE: B-212263.3**DATE:**

February 22, 1984

MATTER OF: Grace Industries, Inc.**DIGEST:**

1. Allegation that awardee's bid was nonresponsive is dismissed where protester contends awardee's postopening submission of bid preparation papers does not show compliance with minimum man-hours because such matter involves bidder responsibility.
2. No basis exists to preclude a contract award merely because the low bidder submitted a below-cost bid. A below-cost bid presents a question of the bidder's responsibility and GAO does not review affirmative determinations of responsibility except in limited circumstances.
3. An allegation that a firm will not be able to comply with IFB requirements will not be considered since it involves a matter of contract administration which is the function and responsibility of the contracting agency.

Grace Industries, Inc. (GI), protests the award of a contract for janitorial services to K&P Inc./Kirsch Maintenance (Kirsch) by the Department of the Navy, Naval Air Station, Sewells Point Area, Norfolk, Virginia (Navy), under invitation for bids (IFB) No. N62470-82-B-4933.

We dismiss the protest.

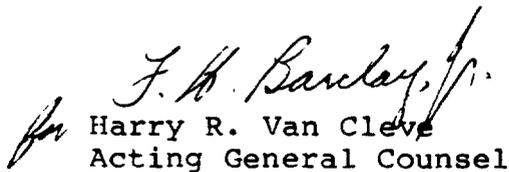
GI contends that Kirsch's bid was nonresponsive because it believes Kirsch's bid preparation papers did not comply with the requirement of demonstrating that the bid was prepared on the basis of 110,549 minimum man-hours of effort. GI believes that the lack of details in Kirsch's papers indicates that it had no intent of complying with the

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man-hour requirements. Also, GI contends that Kirsch's bid price of \$849,000 is insufficient to cover the Service Contract Act wage rate and, thus, it cannot possibly supply 110,549 man-hours of effort.

The protest does not involve a matter of responsiveness but, rather, Kirsch's responsibility. The IFB required that, prior to award, the low bidder must furnish its bid preparation papers to demonstrate its bid was based on the minimum man-hour requirements. This type of information, submitted after bid opening, relates to a bidder's responsibility, not the responsiveness of the bid, which is determined at bid opening. See Government Contractors, Inc., B-187671, January 31, 1977, 77-1 CPD 80, which involved the same factual situation. Likewise, the submission of a below-cost bid is not illegal and whether the low bidder can perform the contract at the price bid is a matter of responsibility. Our Office does not review protests concerning affirmative determinations of responsibility absent a showing that the contracting officer acted fraudulently or in bad faith or that definitive responsibility criteria in the solicitation have not been met. See Sun Temporary Services, B-210577, February 17, 1983, 83-1 CPD 167. Neither exception is alleged here.

With regard to GI's suggestion that Kirsch will not comply with the IFB requirements, this matter pertains to contract administration which is the function of the contracting agency. See Morse Diving Equipment Company, Inc., B-210025, January 11, 1983, 83-1 CPD 28.


for Harry R. Van Cleave
Acting General Counsel