

DECISION



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

FILE: B-215291 DATE: June 19, 1984
MATTER OF: TECOM Incorporated

DIGEST:

No basis exists to preclude a contract award merely because bidders submitted below-cost bids. 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.

TECOM Incorporated (Tecom) protests the award of a contract to any other bidder under invitation for bids (IFB) No. F33601-83-B-9172 issued by the Wright-Patterson Air Force Base, Ohio. Tecom, the third low bidder, alleges that the two lower bidders' prices are significantly less than the cost of doing the work and, therefore, reflected a misunderstanding of the IFB requirements; consequently, the bids should be rejected as unreasonably priced under Defense Acquisition Regulation § 2-404.2(e), reprinted in 32 C.F.R. pts. 1-39 (1983).

We dismiss the protest.

The submission of a below-cost bid is not illegal and provides no basis for challenging the award of a government contract to a responsible prospective contractor. 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. Sun Temporary Services, Inc., B-210577, February 17, 1983, 83-1 CPD 167. Neither exception is alleged here. Finally, Tecom's reliance on the above regulation is misplaced since the regulation applies to unreasonably high bids. See Old Dominion Systems, Inc., B-200263, October 21, 1980, 80-2 CPD 306.

Harry R. Van Cleve
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Acting General Counsel