

31751

DECISION



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

FILE: B-219593

DATE: July 23, 1985

MATTER OF: Fauconniere Manufacturing Corp.

DIGEST:

1. GAO will not review challenges to affirmative determinations of responsibility absent a showing of fraud or bad faith on the part of the contracting officials or a failure to apply definitive responsibility criteria.
2. Second low bidder's protest concerning alleged negative reports on its responsibility is dismissed as academic where award was made under the procurement to the low bidder.

Fauconniere Manufacturing Corp. (Fauconniere) protests the award by the United States Army Troop Support Command (Army), St. Louis, Missouri, to Sanchez Enterprises (Sanchez) under solicitation No. DAAJ10-85-B-A258 for the purchase of 2,247,000 tent stakes. We dismiss the protest.

Sanchez submitted the low bid and Fauconniere the next low bid. Preaward surveys were performed on both firms. The Army has made award to Sanchez.

The primary focus of Fauconniere's protest is the alleged negative preaward survey recommendation regarding Fauconniere's responsibility by the Defense Contract Administrative Services Region on this procurement. Fauconniere also alleges that the contracting officer had serious reservations about the ability of Sanchez to perform the contract.

Fauconniere's protest against Sanchez's ability to perform the work is a matter of bidder responsibility. In making the award, the contracting officer made an affirmative determination of Sanchez's responsibility. Our Office will not review challenges to an affirmative determination

032639

of responsibility absent a showing of fraud or bad faith on the part of the contracting officials or a failure to apply definitive responsibility criteria that were contained in the solicitation. The City of El Paso, B-217401, Jan. 24, 1985, 85-1 C.P.D. ¶ 97. No such showing has been made here.

With regard to the allegations concerning the alleged negative reports on Fauconniere's responsibility, the protest is academic since Fauconniere was not the low bidder in line for award. Universal Parts and Services, Inc., B-216767, B-216806, Dec. 12, 1984, 84-2 C.P.D. ¶ 660.

The protest is dismissed.



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