

DECISION

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

FILE: B-220575 **DATE:** September 27, 1985

MATTER OF: Adam II, Ltd.

DIGEST:

1. There is no legal basis to object to an award of a contract to a bidder that allegedly submitted a below-cost bid. A bid may be rejected as unreasonably low only if the contracting officer also determines that the bidder is nonresponsive.
2. Protests against affirmative determinations of responsibility are only reviewed under limited circumstances, and submission of an allegedly below-cost bid is not one of those circumstances.

Adam II, Ltd. protests the proposed award of a contract to Apex International Management Services, Inc. under solicitation No. F08650-85-B-0074, a two-step formally advertised procurement for the construction of military family housing at Patrick Air Force Base, Florida. Adam II argues that Apex's bid under the second step of this procurement should be rejected because Apex's costs do not conform to its technical proposal.

We dismiss the protest.

In effect, Adam II argues that Apex has submitted a below-cost bid and is trying to "buy-in" on the contract. In Adam II's opinion, this action requires the Air Force to reject the Apex bid as nonresponsive.

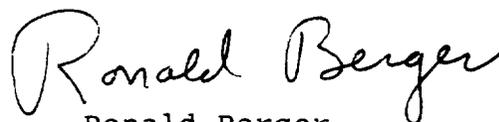
We do not agree. There is no legal basis to object to an award solely on the basis of a below-cost bid. Command Systems, B-218093, Feb. 15, 1985, 85-1 CPD ¶ 205. To reject a bid as unreasonably low requires that the contracting officer also determine that the bidder in question is nonresponsive. NonPublic Educational Services, Inc., B-204008, July 30, 1981, 81-2 CPD ¶ 69. This is not the case here, however. Rather, every indication is that the

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contracting officer has made an affirmative determination that Apex is a responsible bidder.

Insofar as Adam II's protest can be construed as questioning Apex's responsibility, our Office does not review protests against affirmative determinations of responsibility absent a showing of possible fraud on the part of the procuring officials or that definitive responsibility criteria in the solicitation have not been applied. SAI Comsystems Corp., B-196163, Feb. 6, 1980, 80-1 CPD ¶ 100. Neither exception is present here. Therefore, we have no basis to question the proposed award to Apex.

The protest is dismissed.

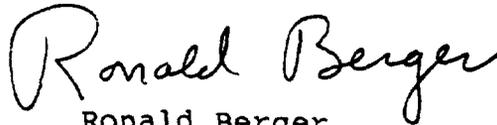


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