

**DECISION**



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

50899

FILE: B-184272

DATE: July 14, 1975

MATTER OF: Agnew Tech-Tran Inc.

97385

**DIGEST:**

Allegation that awardee submitted unprofitable offer is no basis to challenge award since (1) fact that offeror may sustain loss in performing contract does not justify rejection of otherwise acceptable offer and (2) no fraud on part of contracting officials has been alleged or shown to cause review of affirmative determination of responsibility.

Agnew Tech-Tran Inc. (ATT) has protested the award of a contract to Leo Kanner Associates (Kanner) under request for quotations No. DAAG39-75-R-9331 issued by the United States Army, Harry Diamond Laboratories, for translation services.

The contract was awarded to Kanner at a price of \$118,887 for the translation of 6,900,000 words or a per word rate of \$0.0172.

The basis of ATT's protest is that the above price is so low as to be unprofitable and will not cover the costs of performing the contract.

Our Office has consistently held that the submission of a low price is not a basis to challenge the award. The question of whether an offeror can perform at its price is one of responsibility.

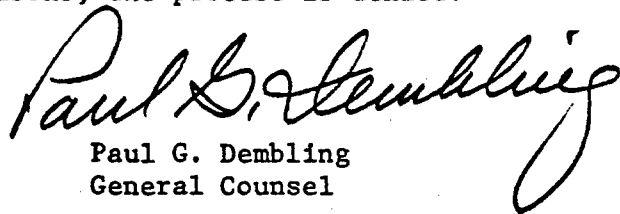
This Office does not review protests against affirmative determinations of responsibility, unless either fraud is alleged on the part of procuring officials or where the solicitation contains definitive responsibility criteria which allegedly have not been applied. See Central Metal Products, Inc., 54 Comp. Gen. 66 (1974). Affirmative determinations are based in large measure on subjective judgments which are largely within the discretion of procuring officials who must suffer any difficulties experienced by reason of a contractor's inability to perform. However, we will continue to consider protests

B-184272

against determinations of nonresponsibility to provide assurance against the arbitrary rejection of bids.

Moreover, the fact that an offeror may sustain a loss in performing at its price does not justify rejection of that otherwise acceptable offer. Servrite International, Ltd., et al., B-179505, January 21, 1974.

For the foregoing reasons, the protest is denied.

  
Paul G. Dembling  
General Counsel