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**DECISION**



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

**FILE:** B-199212

**DATE:** July 3, 1980

**MATTER OF:** Kirschner Associates, Inc. *CN 600969*

**DIGEST:**

Protest that awardee cannot perform at offered price is dismissed, since possibility of buy-in does not provide basis to protest award to responsible firm. Moreover, GAO does not review affirmative determinations of responsibility except in circumstances not applicable here.

Kirschner Associates, Inc. (Kirschner), protests the Department of Health and Human Services (HHS) award of a contract under request for proposals (RFP) No. ROV-ACYF-80-0001 issued by HHS's Region V. *DLG 04662*

*[Protest Alleging]* Kirschner, the incumbent contractor, contends that the awardee's offer constitutes a buy-in since it is unreasonably low and cannot cover the cost of the required services. Kirschner cites two examples. First, the RFP requires a set number of staff days using a staff with specific skills. Kirschner finds it inconceivable that the awardee can provide the required staff at the offered price. Second, the RFP requires a set amount of travel, the cost of which Kirschner believes the awardee will not be able to recoup at its offered price.

There is no legal prohibition against the Government accepting a below-cost offer from a responsible firm. Century Industries, Inc., B-197933, B-197945, June 11, 1980, 80-1 CPD \_\_\_\_\_. In our view this is essentially a protest against HHS's determination that the awardee is a responsible contractor. Moreover, we do not review affirmative determinations

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of responsibility except in circumstances not applicable here. In any event, whether an awardee meets its obligations at the contract price is a matter of contract administration which does not affect the validity of the award. Sylvester James & Sons Maintenance Service, Inc., B-196615, February 5, 1980, 80-1 CPD 92.

Accordingly, the protest is dismissed.

*Harry R. Van Cleave*  
for Milton J. Socolar  
General Counsel