

DECISION



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

Seideman-Kingsbury 119222

FILE: B-208391

DATE: August 16, 1982

MATTER OF: S. G. Enterprises

DIGEST:

No basis exists to preclude a contract award merely because the low bidder may have submitted a below-cost bid.

S. G. Enterprises protests an award to Fancy Industries under solicitation No. DLA 100-82-B-0794, issued by the Defense Logistics Agency, contending that the item contracted for cannot be manufactured at the price quoted. The protest is dismissed.

Acceptance of a below-cost bid by the Government is not illegal and does not provide a basis upon which the award may be challenged. National Office Moving Company; Keahey Moving and Storage, B-203304, B-203304.2, January 1, 1982, 82-1 CPD 4. The question of whether the bidder will be able to perform the contract as specified relates to the firm's responsibility. Implicit in the award to Fancy Industries is a determination by the contracting officer that the firm was a responsible concern, Decision Sciences Corporation, B-205583, January 19, 1982, 82-1 CPD 45, and this Office reviews contracting officers' affirmative determinations of responsibility in only two situations: when there is a showing of fraud or bad faith on the part of procurement officials or when it is alleged that definitive responsibility criteria in the solicitation have not been met. J&R Cleaning & General Maintenance, B-206280, February 19, 1982, 82-1 CPD 147. Neither allegation has been made here.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel