

# DECISION



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

FILE: B-208755

DATE: October 1, 1982

MATTER OF: Ericson Manufacturing Company

## DIGEST:

1. No basis exists to preclude a contract award merely because the low bidder may have submitted a below-cost bid.
2. GAO will not review an affirmative determination of responsibility except in limited circumstances not applicable here.

Ericson Manufacturing Company (Ericson) protests award of a contract to Saady & Hill of Richmond, Virginia (Saady & Hill), under invitation for bids (IFB) DLA400-82-B-5991, issued by the Defense Logistics Agency (DLA) for varying quantities of extension lights to be delivered at several different defense depots. We dismiss the protest.

Ericson contends that Saady & Hill will not be able to meet the Federal specification for the extension lights at the unit price bid by Saady & Hill.

The question of whether the bidder can perform the contract at its bid price is a question which relates to a bidder's responsibility. Absent a determination of nonresponsibility, the submission of a below-cost bid is not a valid basis upon which to challenge an award. See Warfield & Sanford, Inc., B-206929, April 20, 1982, 82-1 CPD 365. Neither will a contracting officer's affirmative determination of responsibility be reviewed by this Office absent a showing that the contracting officer acted fraudulently or in bad faith, or that definitive responsibility criteria in the solicitation have not been met. See J&R Cleaning and General Maintenance, B-206280, February 19, 1982, 82-1 CPD 147. Ericson does not allege either exception here.

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We dismiss the protest.

*Harry R. Van Cleve*  
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Acting General Counsel