

DECISION

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

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FILE: B-211216 **DATE:** April 5, 1983

MATTER OF: Hawthorne Aviation

DIGEST:

1. Protester's contention that prospective awardee's bid price is so low that the firm will not be able to profitably perform the contract will not be considered because it constitutes a challenge of the bidder's responsibility. GAO will not review affirmative determinations of responsibility absent a showing that procuring officials committed fraud or failed to apply definitive responsibility criteria.
2. Protest concerning the evaluation of the second-low bid is academic where the protester has not presented a basis upon which to question a prospective award to the low bidder.

Hawthorne Aviation protests the prospective award of a contract to Doss Aviation under invitation for bids (IFB) No. DABT51-83-B-0004 issued by the Department of Army for aircraft maintenance and support services at Fort Bliss, Texas. Hawthorne contends that Doss Aviation's bid is so low that the firm will not be able to perform the requirement and that Hawthorne's bid should have been evaluated as the second-low rather than the third-low bid. We dismiss the protest.

The Army found Doss Aviation to be the low bidder at \$765,508, Crawford Technical Services second-low at \$886,830 and Hawthorne third-low at \$887,664. The Army is apparently conducting a preaward survey of Doss Aviation at this time.

Hawthorne contends that Doss Aviation's bid price is so low that it will not be able to perform the services. Hawthorne bases this contention on its experience as the incumbent contractor for the requirement and on the large margin between Doss Aviation's price and the other prices submitted.

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We have consistently held that the submission of a bid which a competitor considers too low does not constitute a legal basis for precluding a contract award. Young Patrol Service, B-205014, October 13, 1981, 81-2 CPD 307. Moreover, the rejection of a bid as unrealistically low requires a determination that the bidder is nonresponsible. Futronics Industries, Inc., B-185896, March 10, 1976, 76-1 CPD 169. Should the Army conclude that, notwithstanding the low bid, Doss is responsible, that determination would not be reviewed by our Office absent a showing that contracting officials might have committed fraud or that they failed to apply definitive responsibility criteria. Columbia Loose-Leaf Corporation, B-193659, January 23, 1979, 79-1 CPD 45. Since Hawthorne's only objection to the award is that the bid price is too low, and Hawthorne has not alleged fraud or failure to apply a definitive criterion, we will not consider the matter.

Hawthorne also contends that Crawford's bid should have been evaluated as \$888,830 rather than \$886,830, making Hawthorne the second-low rather than third-low bidder. Hawthorne argues that the Army should have calculated Crawford's bid on the requirement by adding Crawford's item 0001 bid of \$886,830 (item 0001 is for the basic services) to its item 0002 bid of \$2000 (item 0002 is for required data), rather than ranking bidders according to the item 0001 bid prices alone.

We will not consider this allegation. Hawthorne has not presented a basis for us to question Doss Aviation's low bid and there is no indication at this time that the award will be made to anyone other than Doss. A question concerning the relative ranking of bidders that are not being considered for award is an academic issue that will not be considered by our Office. Contra Costa Electric, B-206487.2, May 7, 1982, 82-1 CPD 440.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel