

DECISION



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

FILE: B-212084

DATE: June 28, 1983

MATTER OF: Emmanuel Kouremetis, Ltd.

DIGEST:

1. Below-cost bidding is not illegal and the low bidder thus may not be denied an award merely because it submitted a below-cost bid.
2. GAO will not review affirmative determinations of responsibility except in limited circumstances not relevant here.

Emmanuel Kouremetis, Ltd. protests the award of a contract to John Livadaros, Ltd. under solicitation No. SRU N-3271, issued by the Department of the Navy for ship repairs. The protester contends that the awardee's bid was unreasonably low and thus should have been rejected.

The practice of below-cost bidding is not illegal and the Government cannot withhold or disturb an award merely because the low bid is below cost. See Sun Temporary Services, B-210577, February 17, 1983, 83-1 CPD 167. The question of whether a bidder can satisfactorily perform the contract at its bid price concerns the bidder's responsibility as a prospective contractor. Here, the contracting officer necessarily determined prior to award that Livadaros was responsible. Our Office will not review such affirmative responsibility determinations except in circumstances not relevant here. See Morse Diving Equipment Company, Inc., B-210025, January 14, 1983, 83-1 CPD 28.

We dismiss the protest.

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

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