

DECISION

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

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FILE: B-216299**DATE:** September 12, 1984**MATTER OF:** Management Consulting Inc.**DIGEST:**

There is no legal basis to object to a below-cost offer. Whether an offeror can meet contract requirements in light of its low price is a matter of offeror responsibility, the affirmative determination of which is not reviewed by GAO except in circumstances not present in this case.

Management Consulting Inc. (MCI) protests the award of a contract to another firm by the Naval Supply Center, Norfolk, Virginia, under request for proposals No. N00189-84-R-0094. MCI complains that the awardee's price is too low in light of the personnel and equipment requirements of the specifications.

We will not consider the protest. There is no legal basis to object to an award on the basis of a below-cost offer. Technical Food Services, Inc., B-210024, Dec. 21, 1982, 82-2 CPD ¶ 563. Whether the offeror will be able to meet contract requirements in light of its offered price is a matter of responsibility. Before award, an agency must make an affirmative determination that the offeror is responsible. Because that is a very subjective determination based on business judgment, we will not review a challenge to such an affirmative determination unless there is a showing of possible fraud or bad faith on the part of contracting officials or an allegation that a specific responsibility criterion set forth in the solicitation was not met. There is no allegation of the latter, and MCI's assertion that the "evaluation for award could not have been fairly and prudently

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carried out" falls short of the requisite showing of possible fraud or bad faith. See Sol/Mart, Inc., B-209507, Nov. 8, 1982, 82-2 CPD ¶ 419.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel