

DECISION

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

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FILE: B-216352**DATE:** September 26, 1984**MATTER OF:** Freund Precision, Inc.**DIGEST:**

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.

Freund Precision, Inc. (Freund), protests any award of a contract to Apache Enterprises (Apache) under solicitation No. DAAJ09-84-B-A457 issued by the United States Army Aviation Systems Command. Freund contends that Apache has never made the required item, that its price is unrealistically low and that it will be impossible for the firm to make a profit on the contract.

We dismiss the protest.

The Army has informally advised us that Apache submitted the low bid and that the firm has been determined to be a responsible firm.

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, Oct. 13, 1981, 81-2 C.P.D. ¶ 307. The submission of a below-cost bid is not illegal and whether the low bidder can perform the contract at the price bid is a matter of responsibility. Our Office does not review protests concerning affirmative determinations of responsibility 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. Hydro-Test Products, Inc., B-214009, Jan. 23, 1984, 84-1 C.P.D. ¶ 104; Sun Temporary Services, B-210577, Feb. 17, 1983, 83-1 C.P.D. ¶ 167. Neither exception is alleged here.

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With regard to Freund's suggestion that Apache will not be able to comply with the solicitation requirements, this matter pertains to contract administration, which is the function of the contracting agency. Morse Diving Equipment Company, Inc., B-210025, Jan. 11, 1983, 83-1 C.P.D. ¶ 28.

Harry R. Van Cleve
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Acting General Counsel