

**DECISION**



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

*Pl. II  
8264*

FILE: D-193066

DATE: November 6, 1978

MATTER OF: Broken Lance Enterprises, Inc.

**DIGEST:**

1. Submission of a low bid is not a basis to challenge an award and question of whether bidder can perform at its price is one of responsibility, affirmative determinations of which are not reviewed by GAO absent allegations of fraud or of misapplication of specific responsibility criteria.
2. Decision as to whether to use preaward survey to determine responsibility of prospective contractor is matter for determination of contracting officer.
3. Allegation of possibly ambiguous specifications because prices received are unreasonably low, without identification of any deficiency except that specification "could be simplified," provides no basis for resolicitation.

Broken Lance Enterprises, Inc. (BLE) protests the award of a contract under invitation for bid (IFB) No. DAKF 19-78-B-0079 issued by the Department of the Army, Fort Riley, Kansas, to "any bidder whose price is lower" than the protester's. The procurement is for mess attendant services at Ft. Riley, and BLE is the incumbent contractor.

As its basis for protest, BLE claims that its bid is realistic and reasonable and perforce all bids lower than its bid should be rejected as unreasonable. BLE contends that a preaward survey will show that many bidders are not responsible because they did not submit

realistic bids. BLE also asserts that, because so many unreasonable bids were received, "a possibility exists that \* \* \* the specifications are ambiguous" so that the requirement should be readvertised.

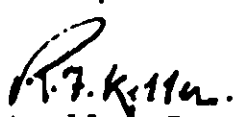
This case falls within the ambit of our decisions which hold that where it is clear from a protester's submission that a protest is without legal merit, the protest will be decided on the basis of the protester's submission without our obtaining a report from the procuring activity. Midwest Service and Supply Co., et al., B-191554, July 13, 1978, 78-1 CPD 34.

We have consistently held that the submission of a low bid is not a basis to challenge an award. The question of whether a bidder can perform at its price is one of responsibility. Agnew Tech-Tran, Inc., B-184272, July 14, 1975, 75-2 CPD 32. In this respect, our Office does not review affirmative determinations of responsibility absent allegations of fraud or misapplication of definitive responsibility criteria. H. Webb Hayes & Associates, Inc., B-191259, May 1, 1978, 78-1 CPD 336. Neither of these circumstances has been alleged here. Moreover, even if we assume that BLE means by its allegations that all of the lower bidders have submitted below cost bids, award may not be withheld merely because the low bid is below cost. See, e.g., American Telephone and Telegraph Company, B-179285, February 14, 1974, 74-1 CPD 72. In addition, whether a preaward survey is used to determine the responsibility of a prospective contractor is a matter for determination by the contracting officer. See Rushton Industrial Construction, B-191825, June 12, 1978, 78-1 CPD 427. A preaward survey is merely one method that a contracting officer may use to determine responsibility. Defense Acquisition Regulation/Armed Services Procurement Regulation (DAR/ASPR) 1-905.4 (1976 ed.).

Finally, we view BLE's allegation with respect to the ambiguity of the specifications as purely speculative. BLE does not assert that it perceived any

particular ambiguity--only that the "unreasonably" low prices (by its calculation) received from some bidders raise the possibility that the specifications are ambiguous. BLE also does not claim it perceives any specific complexity in the specifications; it asserts only that the specifications "could be simplified." Under these circumstances we find no cogent reason to recommend resolicitation after bid prices have been exposed.

The protest is denied.

  
Deputy Comptroller General  
of the United States