

DOCUMENT RESUME

08095 - [C3288398]

[Protest Involving Bidder's Responsiveness to Contract Requirements]. B-193000. November 20, 1978. 2 pp.

Decision re: Timmerman Corp.; by Hiltes J. Socciar, General Counsel.

**Contact: Office of the General Counsel; Procurement Law I.
Organization Concerned: Department of the Army; Rock Island
Arsenal, IL; Astro Development Labs., Inc.
Authority: 53 Comp. Gen. 396. 54 Comp. Gen. 66. 54 Comp. Gen.
509. Defense Acquisition Regulation 1-904.1.**

A protester argued that the contract awardee could not be considered responsive because it did not contact suppliers concerning price and availability of ingredients necessary to produce the required items. The ability to meet contract requirements is a matter of responsibility, not responsiveness, and will not be reviewed by GAO. (RHS)

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PLCG

DECISION



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

FILE: B-193000

DATE: November 20, 1978

MATTER OF: Timmerman Corporation

DIGEST:

Protest alleging that awardee cannot comply with contract requirements is dismissed since Government's acceptance of responsive offer effectively binds offeror to perform in accordance with the terms of the contract, and whether offeror is able to do so is matter of responsibility which will not be reviewed by GAO except in limited circumstances not applicable here.

Timmerman Corporation (Timmerman), protests the award of a contract for canned decontaminating agent to Astro Development Laboratories, Inc. (Astro), under request for proposals (RFP) No. DAAA09-78-R-5119, issued by the United States Army, Rock Island Arsenal, Illinois.

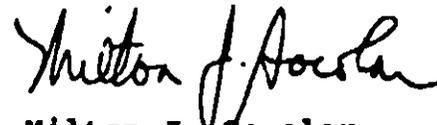
Timmerman argues that Astro cannot be considered "responsive" because it did not contact suppliers for price and availability of ingredients necessary to produce the required items.

Whether a firm has the ability to meet the Government's requirements is a question of the firm's responsibility rather than its responsiveness to the solicitation. 53 Comp. Gen. 396 (1973). Responsiveness relates to whether the offeror has promised to satisfy the Government's requirements and this is normally satisfied by signing without qualification and returning the bidding documents. Thus, Timmerman has raised no basis for questioning the responsiveness of Astro.

The award of a contract to Astro necessarily involved an affirmative determination of that firm's responsibility under Defense Acquisition Regulation

§ 1-904.1 (1975). This Office does not review protests which question such determinations of responsibility unless either fraud on the part of the procuring official is alleged, or the solicitation contains definitive responsibility criteria which allegedly have not been applied. See Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64 and Yardney Electric Corporation, 54 Comp. Gen. 509 (1974), 74-2 CPD 376. Neither exception is applicable here.

Accordingly, the protest is dismissed.



Milton J. Socolar
General Counsel