

DECISION



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

60668

FILE: B-185716

DATE: March 24, 1976

MATTER OF: ISI Patrol, Inc.

98457

DIGEST:

Protest that all nine lower bidders are not responsible will not be reviewed by GAO except for showing of fraud or that solicitation contains definitive responsibility criteria which allegedly have not been applied.

ISI Patrol, Inc. (ISI) protests the award of a contract to any of nine lower bidders under solicitation No. 2PBO-VN-1059 issued by the General Services Administration.

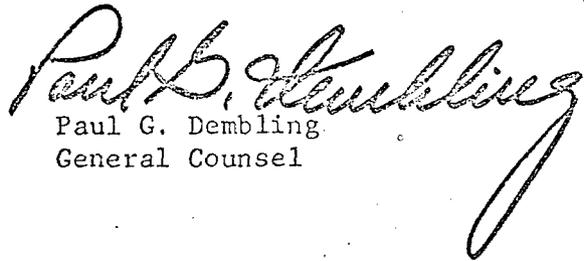
The solicitation was issued in contemplation of a service contract for security guard services at the U.S. Department of Labor and the NASA Institute for Space Studies, both in New York City. The protester contends that all bidders which entered bids below an hourly rate of \$6.41, GSA's estimated hourly rate for the services, should be found non-responsible for bidding an amount so low as to insure failure of the company and voiding of contract responsibilities. In short, ISI is challenging the financial responsibility of all nine lower bidders.

GSA reports that the regional office has proposed award be made to the third low bidder. This amounts to a determination that, to GSA's satisfaction, the third low bidder is sufficiently financially responsible to perform the contract. Federal Procurement Regulations, Subpart 1-1.12, § 1-1.1203.1. This Office no longer reviews bid protests involving agencies affirmative determinations of responsibility, except for actions by procurement officials which are tantamount to fraud or where the solicitation contains definitive responsibility criteria which allegedly have not been applied. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; LaCrosse Garment Manufacturing Company, B-185462, December 17, 1975, 75-2 CPD 399. Affirmative determinations of responsibility are based

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in large measure on subjective judgments which are largely within the discretion of procuring officials who must suffer any difficulties experienced by a contractors' inability to perform. However, we will continue to consider protests against determinations of non-responsibility to provide assurance against the arbitrary rejection of bids.

In view of the foregoing, this protest is dismissed.


Paul G. Dembling
General Counsel