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DECISION



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

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FILE: B-206974

DATE: April 19, 1982

MATTER OF: Reliance Van Company, Inc.

DIGEST:

1. Protest concerning bidder's ability and intention to pay wage rates required by contract is not for consideration as GAO will not review affirmative determination of responsibility in absence of showing of fraud or allegation that definitive responsibility criteria in solicitation were misapplied.
2. GAO does not generally review determinations by Small Business Administration to issue Certificate of Competency.

Reliance Van Company, Inc. protests the proposed award of contract to another firm under Invitation for Bids (IFB) H62269-82-B-0023, issued by the Naval Air Development Center, Warminster, Pennsylvania. Reliance contends that the low bidder "will not be paying" the prevailing labor wage rate required by the contract.

The contention relates to the responsibility of the bidder, that is, whether the bidder intends to and is capable of performing the contract. Bidder responsibility must be determined in the affirmative by the contracting officer prior to award. Our Office does not review protests against affirmative determinations of responsibility unless either fraud on the part of the procuring officials is alleged or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Toloco Industries, Ltd., B-202984, May 6, 1981, 81-1 CPD 358. Neither is the case here.

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The protester also requests that we ascertain whether the Small Business Administration (SBA) has considered this wage rate concern "under their grant of a COC [Certificate of Competency]." It is not clear whether the protester is asserting that the responsibility of the low bidder should be referred to SBA (apparently because the low bidder is a small business) or that SBA has already issued a COC to the low bidder. If the former, as stated above, we will not consider a challenge to an affirmative responsibility determination and thus will not require the contracting officer to refer the matter to SBA. If the latter, we need only point out that SBA's issuance of a COC is conclusive on the question of the bidder's responsibility and, except in circumstances not present here, we will not review SBA's decision. See, e.g., Dyneteria, Inc., 55 Comp. Gen. 97 (1975), 75-2 CPD 36.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel