

**DECISION**



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

**FILE:** B-209507

**DATE:** November 8, 1982

**MATTER OF:** Sol/Mart, Inc.

**DIGEST:**

1. Protest that contracting officer made award to a nonresponsible bidder will not be considered because GAO does not review contracting agency's affirmative determination of responsibility except in circumstances not applicable here.
2. GAO will not review question of whether awardee will perform contract with adequate work force with labor costs that exceed its bid because that is a matter of contract administration which is the function and responsibility of the procuring agency.

Sol/Mart, Inc., a bidder under solicitation No. DLA005-82-B-0019, issued by Defense Depot, Tracy, California, for janitorial services, protests the award of a contract to Manuel's Janitorial Services.

Sol/Mart contends that the direct labor costs alone of furnishing a work force which complies with the staffing requirements of the specifications approximate \$300,000, and since the awardee's bid price is \$268,000, it will provide an inadequate work force and will not satisfactorily perform the contract.

The contention that Manuel's will not be able to perform the contract at its bid price involves a matter of the awardee's responsibility. Before award, an agency must affirmatively determine that the awardee is responsible. Defense Acquisition Regulation § 1-904.1 (1976 ed.). We have held that where a contracting agency makes an affirmative determination of responsibility (which is implicit in the award to Manuel's) we will not review it absent a showing that the contracting officer may have acted fraudulently or in bad faith or that definitive

responsibility criteria in the solicitation were not applied. J&R Cleaning and General Maintenance, B-206280, February 19, 1982, 82-1 CPD 147. The protester has not mentioned any definitive responsibility criteria and its unsupported speculation that Manuel's may have received "special treatment" falls short of a showing of possible fraud or bad faith on the part of the contracting officer. For this reason, we will not review the protester's allegation that the contracting officer made an award to a bidder who was not responsible.

Whether the awardee actually performs in accordance with the terms of its contract is a matter of contract administration which does not relate to the propriety of the award. Contract administration is the function and responsibility of the procuring agency and our Office does not resolve such matters under our Bid Protest Procedures, 4 C.F.R. Part 21 (1982). Hybrid Abstracts, B-207083, May 24, 1982, 82-1 CPD 488.

The protester also objects to the Tracy depot's cancellation in September 1981 of a previous solicitation for janitorial services and subsequent award (noncompetitively) to Manuel's. Any bases for protest arising out of that procurement were either known, or should have been known, to Sol/Mart so long ago that its present protest clearly is untimely. 4 C.F.R. § 21.2.

The protest is dismissed.

*Harry R. Van Cleve*  
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Acting General Counsel