

DECISION

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

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FILE: B-215631

DATE: December 3, 1984

MATTER OF: Trinity Services, Inc.

DIGEST:

1. GAO does not review the accuracy of wage rate determinations issued by the Department of Labor in connection with solicitations subject to the Service Contract Act.
2. Incumbent contractor was not prejudiced by inconsistencies between the Department of Labor wage determination in the solicitations and the collective bargaining agreement, since all bidders were on notice that the wage determination specified only minimum wages and benefits and the awardee would be required to comply with the collective bargaining agreement.

Trinity Services, Inc. protests a Service Contract Act wage determination incorporated into Navy solicitation No. N62467-84-B-2051 for custodial services at the Pensacola, Florida, Naval Air Station. Trinity, the incumbent contractor, complains that the wage determination is inconsistent with a collective bargaining agreement covering the employees involved and will result in its being underbid by competitors who are unaware that they will be required to perform in accord with the agreement.

We dismiss the protest because it is the policy of this Office not to review the correctness of Department of Labor wage rate determinations issued in connection with solicitations covered by the Service Contract Act, 41 U.S.C. §§ 351-358 (1982).

By letters dated October 5, 1984, Trinity protested to the Navy and to the Department of Labor that wage determination No. 74-1137 (Rev. 14) included in solicitation amendment No. 00005, dated October 3, was defective because of inconsistencies with the then-current collective bargaining agreement. Subsequently, the contracting

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agency issued amendment No. 00007, dated October 12, which included the collective bargaining agreement as an attachment. Amendment No. 00007 also specifically called bidders' attention to the variances between the collective bargaining agreement and the wage determination. Amendment No. 00008, dated October 19, postponed bid opening indefinitely pending receipt of a revised wage determination. On October 26, the Navy issued amendment No. 00009, which set bid opening for November 6 and which included a revised wage determination, No. 74-1137 (Rev. 15).

Trinity now protests that this latest wage determination remains inconsistent with a revised collective bargaining agreement dated October 4 in several respects, including employer contributions to medical, dental, and life insurance plan costs; vacation liability rate; and incentive and severance/relocation pay.

Because the courts have held that a prevailing wage rate determination made by the Secretary of Labor is not subject to judicial review, this Office does not review the accuracy of wage rate determinations issued in connection with solicitations subject to the Service Contract Act. Geronimo Service Co., B-210057, Jan. 24, 1983, 83-1 CPD ¶ 86, aff'd on reconsideration, B-210057.2, Apr. 13, 1983, 83-1 CPD ¶ 398. A challenge to a Service Contract Act wage determination should be processed through the administrative procedures established by the Department of Labor and set forth at 29 C.F.R. § 4.55 (1984). Id.

In any event, under the Service Contract Act, successor contractors generally are required to adhere to the predecessor contractor's collective bargaining agreement. See 41 U.S.C. § 353(c). In this regard, the wage determination included with amendment No. 00009 contains a legend (on page 8) that puts all bidders on notice that the successful bidder will be bound by the collective bargaining agreement; it expressly warns that the terms of the agreement, not the wage determination, dictate the minimum wages and fringe benefits payable. See 29 C.F.R. § 4.163(b). Thus, all prospective bidders must ascertain the details of the collective bargaining agreement and consider them in calculating their bids. Since all bidders therefore are charged with obtaining the same knowledge regarding the basis for bidding, we cannot conclude that Trinity is at a competitive disadvantage in this competition. Geronimo Service Co., B-210057, supra.

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The protest is dismissed.

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General Counsel