

K. Riback



Comptroller General
of the United States

Washington, D.C. 20548

144712

Decision

Matter of: Hartford Steam Boiler Inspection and Insurance
Company

File: B-243981

Date: August 26, 1991

David C. Spinelli for the protester.
Vera Meza, Esq., and Lynn Sturges, Esq., Department of the
Army, for the agency.
Katherine I. Riback, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

The General Accounting Office will not review an affirmative determination of responsibility absent a showing of possible bad faith or fraud or misapplication of definitive responsibility criteria.

DECISION

Hartford Steam Boiler Inspection and Insurance Company protests the award of purchase order No. DAAA31-91-M-0764 to the Boiler and Pressure Vessel Inspection Agency, Inc. (BPVI), under an oral solicitation issued by the McAlester Army Ammunition Plant for class "A" boiler inspections on 22 steam boilers. Hartford claims that BPVI cannot provide qualified inspectors to perform the boiler inspections.

The protest is dismissed.

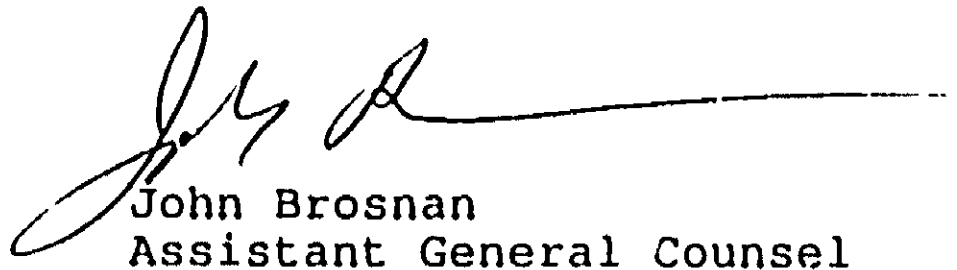
On April 16, 1991, the agency awarded the \$4,510 purchase order to BPVI as the low offeror. The purchase order provides that the inspections are to follow two pages of technical specifications, which in turn require that the work be performed in accordance with the Rules for Inspection, Section VII, Care of Power Boilers, of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The requirements which inspectors must meet are contained in the Rules for Inspection.

After the award was made, Hartford protested that BPVI is not capable of providing "authorized" inspectors as required by the purchase order. Hartford points out that to be "authorized" under the Rules for Inspection inspectors must

be employed by a state or municipality of the United States, a province of Canada or by an insurance company authorized to write boiler insurance in the jurisdiction in which the boiler is installed. The protester argues that the inspectors' employer, BPVI, does not fit into any of these categories.

Here, the standards for inspectors were included as performance requirements in the purchase order so that any challenge to BPVI's ability to supply the necessary inspectors challenges the Army's general determination that BPVI is a responsible contractor because it relates to the awardee's ability to perform. United Int'l Investigative Serv., B-243720, May 6, 1991, 91-1 CPD ¶ 443. Our Office will not review an affirmative determination of responsibility, which is largely a business judgment, unless there is a showing that definitive responsibility criteria in the solicitation were not met or a showing of possible fraud or bad faith on the part of procurement officials. 56 Fed. Reg. 3,759 (1991) (to be codified at 4 C.F.R. § 21.3(m)(5)). Where, as here, there is no showing of possible fraud or bad faith, or that the definitive responsibility criteria have been misapplied, we have no basis to review the protest.

The protest is dismissed.



John Brosnan
Assistant General Counsel