

J. Thomas

Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Eagle Maintenance Services, Inc

File: B-258382

Date: October 14, 1994

DECISION

Eagle Maintenance Services, Inc, protests the award of a contract to Jewell Industries, Inc. by the General Services Administration under invitation for bids No. GS11P94MJC0025.

We dismiss the protest.

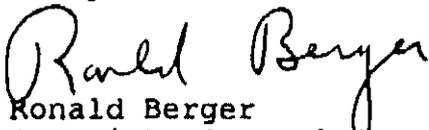
Although Eagle characterizes Jewell's bid as nonresponsive to the solicitation requirements, Eagle, in asserting that the awardee's bid prices (and those of other bidders whose prices were lower than Eagle's) reflect an intention not to comply with the Service Contract Act (SCA) wage determination in the IFB, is in effect challenging Jewell's ability and intention to perform in accordance with solicitation requirements at the price it offered. This challenge refers not to the responsiveness of the bid but to the responsibility of the bidder.

As we have often held, the submission of prices below those warranted by an applicable wage determination does not preclude award provided the bid does not otherwise evidence an intent to violate the labor statutes and the firm is determined to be responsible. See, e.g., Solid Waste Servs., Inc., B-248200.4, Nov. 9, 1992, 92-2 CPD ¶ 327.

The protester does not allege that Jewell, other than through its pricing, took exception to the IFB wage determination requirements. Accordingly, Jewell's bid is not nonresponsive.

As for Jewell's responsibility, it is also well-settled that an agency's affirmative determination of a contractor's responsibility will not be reviewed by our Office absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied. 4 C.F.R. § 21.3(m)(5); King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD ¶ 177. Where, as here, there is no showing of possible fraud or bad faith, or that definitive responsibility criteria have been misapplied, we have no basis to review the protest.

The protest is dismissed.



Ronald Berger
Associate General Counsel