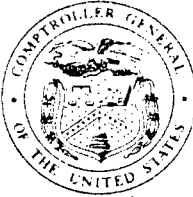


DECISION



1534/9
Hofmeister
PLJ
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

[Protest of Department of Interior Contract Award]
FILE: B-200860 DATE: November 7, 1980

MATTER OF: Planned Systems International, Inc.

DIGEST:

1. GAO does not review affirmative determinations of responsibility absent showing of fraud by procuring officials or that solicitation contains definitive responsibility criteria which have not been applied.
2. No legal basis exists to preclude contract award merely because low offeror allegedly submitted unrealistically low price.
3. Mere speculative statements of protester do not require investigation to prove their possible validity, since burden is on protester to substantiate its case.

Planned Systems International, Inc., protests the award of contract No. 14-01-0001-F0202-05 by the *D605431* Facility Construction and Operation Improvement Division, Department of the Interior, on two bases. First, it contends that the awardee cannot timely perform the contract without material changes to the specifications, which it believes have been made. Second, it contends that the \$70,000 award price is unrealistically low and, therefore, will be increased by the contracting officer by means of amendments to the contract.

The question of whether or not the awardee can timely perform the contract goes to the matter of responsibility, e.g., whether the awardee is capable of properly performing. The contracting officer determined the awardee to be responsible, either explicitly or, at least, implicitly, by awarding it the contract. Our Office does not review protests of affirmative determinations of responsibility absent a

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showing of fraud on the part of the procuring officials or that the solicitation contains definitive responsibility criteria which have not been applied. Arrowhead Linen Service, B-194496, January 17, 1980, 80-1 CPD 54. Here, there is no showing that the responsibility determination was the result of fraud or that definitive criteria have not been applied.

Regarding the contention that the awardee's price is too low or below cost, if an offeror has been found to be otherwise responsible, the fact that it may have submitted such a price does not constitute a legal basis for precluding or disturbing a contract award. Ira Gelber Food Services, Inc., B-196868, February 27, 1980, 80-1 CPD 161.

The protester also states that it believes material changes have been made to the contract specifications and that amendments to the contract will probably be issued to increase the contract price. No substantive proof as to the validity of these allegations is offered. Mere speculative contentions are insufficient to cause an investigation into the possible validity of those statements, since the protester has the burden to substantiate its case. Bowman Enterprises, Inc., B-194015, February 16, 1979, 79-1 CPD 121.

Accordingly, the protest is dismissed.

Milton J. Socolar
for Milton J. Socolar
General Counsel