

## DECISION



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

FILE: B-208634

DATE: September 15, 1982

MATTER OF: Teamster Local No. 270

## DIGEST:

1. No basis exists to preclude a contract award merely because several bidders may have submitted below-cost bids.
2. GAO does not review matters of affirmative determination of responsibility except in limited circumstances not applicable here.

International Brotherhood of Teamsters, Local No. 270 (Teamsters), protests any award under solicitation No. N62467-82-B-7650 issued by the Naval Facilities Engineering Command, Charleston, South Carolina, for custodial services.

Teamsters contends that the bids received under this solicitation are so low that it is evident the solicitation did not properly advise the bidders of all the factors that should have been considered in pricing the contract, such as fringe benefits, vacations and accumulated sick leave hours. Therefore, Teamsters requests that the solicitation be canceled and a new one issued that accurately reflects the factors affecting the cost of performing the contract.

Essentially, the protester is complaining about the submission of below-cost bids. With respect to below-cost bids, we are aware of no legal principle on the basis of which an award may be precluded or disturbed because bidders have submitted below-cost bids. See J&R Cleaning & General Maintenance, B-206343, February 19, 1982, 82-1 CPD 148. Rather, the question of whether these bidders can adequately perform the contract at their bid prices depends on the responsibility of the bidders. Before award, the agency must make an affirmative determination of the awardee's responsibility. Our Office does not review such a determination

absent a showing that the contracting officer acted fraudulently or in bad faith or that definitive responsibility criteria in the solicitation have not been met. J&R Cleaning and General Maintenance, B-206280, February 19, 1982, 82-1 CPD 147. Neither exception has been alleged here.

For the above reasons, the protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel