

DECISION

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

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FILE: B-216247**DATE:** September 12, 1984**MATTER OF:** Ameriko Maintenance Co.**DIGEST:**

1. Protest that awardee's bid is too low to permit compliance with both the solicitation's minimum manning requirements and the applicable Service Contract Act wage determination is dismissed. Rejection of a bid as too low requires the agency to find the bidder nonresponsive, and GAO does not review affirmative determinations of responsibility absent a showing of possible fraud or bad faith on the part of contracting officials, or an allegation that definitive responsibility criteria were misapplied.
2. Responsibility for administration and enforcement of the Service Contract Act is vested in the Department of Labor, not with GAO.

Ameriko Maintenance Co. protests the award of a contract for janitorial services to Executive Suite Services, Inc. under solicitation No. MDA 902-84-R-0014, issued by the Armed Forces Radio and Television Services, Los Angeles, California. Ameriko alleges that the awardee's offered price is too low to permit compliance with both the solicitation's minimum manning requirements and the applicable wage determination issued pursuant to the Service Contract Act of 1965, as amended, 41 U.S.C. §§ 351-356 (1982). We dismiss the protest.

Where a solicitation contains minimum manning requirements, any rejection of an offer as too low requires a determination that the offeror is nonresponsive. Here, however, the contracting activity's award

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to Executive constitutes a determination that the firm is responsible. Federal Acquisition Regulation, § 9.105-2, 48 Fed. Reg. 42,102, 42,144 (1983) (to be codified at 48 C.F.R. § 9.105-2). This Office does not review affirmative determinations of responsibility absent a showing of possible fraud or bad faith on the part of contracting officials, or an allegation that definitive responsibility criteria were misapplied. Dragon Services, Inc., B-213041, March 19, 1984, 84-1 CPD ¶ 322. Neither exception is applicable here.

Ameriko's allegation that Executive may not comply with the applicable Service Contract Act wage determination is the responsibility of the Department of Labor, not GAO, and we therefore will not consider the matter. See The Swanson Corporation, B-213846.3, April 16, 1984, 84-1 CPD ¶ 418.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel