

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

B-220005

**FILE:**

DATE: August 30, 1985

Tri-County Corrugated, Inc.

**MATTER OF:****DIGEST:**

Protest that other bidders failed to arrive at their bid prices independently, thus violating certificate of independent pricing determination, is dismissed. Whether bidder may have engaged in collusive bidding is one circumstance to be considered by the contracting officer in determining whether bidder is a responsible, prospective contractor. Moreover, GAO will not consider a challenge to an affirmative determination of responsibility in the absence of a showing of possible fraud or bad faith.

Tri-County Corrugated, Inc. (Tri-County), protests any award of contract No. N62467-85-C-5903 to American Refuse Service (American) or World Refuse Service (World) under a solicitation issued by the Department of the Navy for refuse collection. We dismiss the protest.

Tri-County contends that American and World failed to arrive at their bid prices independently, thus violating the solicitation's certificate of independent price determination. In support of its contention, Tri-County alleges that American and World are closely held corporations owned and operated by close relatives, one of whom is the president of American and vice president of World. In addition, Tri-County points out that the bids submitted by the two firms were precisely \$40,000 apart.

If Tri-County means to suggest that the two firms acted jointly in preparing their proposals, then we note that collusive bidding is a matter for the determination of the contracting officer who, if he perceives evidence of collusion, is expected to report the situation to the Attorney General. Federal Acquisition Regulation, §§ 3.103 and 3.303, 48 C.F.R. §§ 3.103 and 3.303 (1984). Further, whether a bidder in line for award may have engaged in collusive bidding is to be considered in the contracting officer's determination of responsibility. Our Office

will not consider a challenge to an affirmative determination of responsibility where, as here, there has been no showing of possible fraud or bad faith. See DelRocco & Sons, Inc., B-218314, Mar. 22, 1985, 85-1 C.P.D. ¶ 339.

The protest is dismissed.



Robert M. Strong  
Deputy Associate  
General Counsel