



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Atlantic Maintenance, Inc.

File: B-239621.2

Date: June 1, 1990

John B. Dale, Esq., McKenna, Conner & Cuneo, for the protester.

Catherine M. Evans, David Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that awardee's price is unreasonably low is dismissed as essentially a challenge against contracting officer's affirmative determination of responsibility, which General Accounting Office will not review absent circumstances not present here.

DECISION

Atlantic Maintenance, Inc., protests the National Aeronautic and Space Administration's award of a contract to Alpha Maintenance Co., the apparent low bidder under invitation for bids (IFB) No. IFB5-58411/615, for custodial and related services. Atlantic alleges that Alpha's bid price is so low as to render the bid nonresponsive and the firm nonresponsible.

We dismiss the protest.

As a general rule, whether a contract can be performed at the offered price is a matter of the bidder's responsibility; the submission of a below-cost bid is not in itself legally objectionable. Earthworks of Sumter, Inc., B-234594, May 30, 1989, 89-1 CPD ¶ 518. Here, Atlantic has submitted no evidence that Alpha is unable to bear the approximately \$25,000 loss it allegedly will incur on its base bid of \$657,600. In any case, we will not review a contracting officer's affirmative determination of a firm's responsibility absent a showing of possible fraud or bad

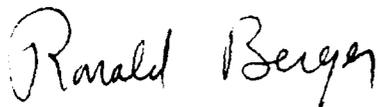
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faith or a failure properly to apply definitive responsibility criteria. 4 C.F.R. § 21.3(m)(5) (1990); ALM, Inc., B-225679.3, May 8, 1987, 87-1 CPD ¶ 493. No such showing has been made here.

Atlantic argues that our decision in CCL, Inc., B-228094.2, B-228094.3, Feb. 9, 1988, 88-1 CPD ¶ 126, compels a finding that Alpha's bid is ambiguous, and therefore nonresponsive, on the basis that its low cost renders it unclear whether Alpha intends to comply with the government's minimum requirements. Atlantic's reliance on CCL is misplaced. In CCL, the bidder submitted descriptive literature with its bid indicating that the price bid was for only one component of the required computer system; it was therefore unclear whether the bidder intended to supply the other system components. We agreed with the agency's determination that the bid was ambiguous not because the bid was significantly below cost, but because it did not exhibit the bidder's clear intent to supply all of the required items. Here, by contrast, Alpha's bid indicates that the firm intends to furnish the services called for.

Atlantic, the third low bidder, also alleges that the bid of the second low bidder is nonresponsive as mathematically and materially unbalanced. As we have found that the award to Alpha, the low bidder, was proper, we need not consider the responsiveness of the second low bid.

The protest is dismissed.



Ronald Berger
Associate General Counsel