



Comptroller General
of the United States
Washington, D.C. 20548

144990

Decision

Matter of: Grant's Janitorial and Food Service, Inc.
File: B-244170.3
Date: September 26, 1991

Joseph L. Grant for the protester.
Catherine M. Evans, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

1. Protest alleging that award was improper because it was not made at a fair market price is dismissed for failure to state a legally sufficient basis where protester does not furnish awardee's price, its own price, or any other information tending to show that award was not based on a fair market price.

2. Protest that awardee's price is unreasonably low is dismissed as essentially a challenge against contracting officer's affirmative determination of responsibility.

DECISION

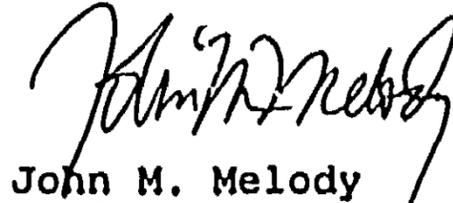
Grant's Janitorial and Food Service, Inc. protests the award of a contract under request for proposals (RFP) No. DABT02-91-R-0010, issued by the Department of the Army for food services at Fort McClellan, Alabama. Grant's alleges that the award price is not a fair market price.

We dismiss the protest.

Our Regulations provide that a protest shall include a detailed statement of the legal and factual grounds of protest, 4 C.F.R. § 21.1(c)(4) (1991), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). This requirement contemplates that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood of the protester's claim of improper agency action. Professional Medical Prods., Inc., B-231743, July 1, 1988, 88-2 CPD ¶ 2. Here, Grant's alleges that the awardee's price was not a fair market price. However, Grant's has not furnished us with the award price, its own price, or other information tending to support its allegation. We therefore have no basis to find that award was made at other than a fair market price.

To the extent that Grant's appears to be alleging that the awardee's price was unreasonably low, we note that the submission of a below-cost offer is legally unobjectionable; whether a contract can be performed at the offered price is a matter of the offeror's responsibility. Cajar Defense Support Co., B-237426, Feb. 16, 1990, 90-1 CPD ¶ 286. We will not review a contracting officer's affirmative determination of responsibility absent a showing of possible fraud or bad faith or a failure properly to apply definitive responsibility criteria, none of which are present here. 4 C.F.R. § 21.3(m) (5); ALM, Inc., B-225679.3, May 8, 1987, 87-1 CPD ¶ 493.

The protest is dismissed.



John M. Melody
Assistant General Counsel