



Comptroller General  
of the United States

104623

Washington, D.C. 20548

# Decision

**Matter of:** United International Investigative Services

**File:** B-260558

**Date:** March 2, 1995

## DECISION

United International Investigative Services protests the award of a contract under invitation for bids (IFB) No. H09S9503500000, issued by the Department of Housing and Urban Development for guard services for the Los Angeles field office. United, the fifth low bidder, argues that the awardee, Inter-Con Security Systems, Inc., and the other lower-priced bidders have offered prices that reflect that they do not intend to pay the applicable Guard Class II wage rates reflected in the Service Contract Act wage determination, but intend to pay only at the Guard Class I rates.

We dismiss the protest.

Even if a firm offers hourly rates below those specified in the wage determination, that firm is nonetheless eligible for contract award provided its bid does not evidence an intent to violate the Service Contract Act and the firm is otherwise determined to be responsible. The Galveston Aviation Weather Partnership, B-252014.2, May 5, 1993, 93-1 CPD ¶ 370. United does not assert that the lower-priced bids took specific exception to the IFB's Service Contract Act requirements, hence those firms would be obligated to pay its employees at the applicable wage determination rate. A bid which does not take exception to the Service Contract Act requirements and which offers wage rates below those specified in the wage determination is generally considered to be a below-cost bid and therefore legally unobjectionable. Id.

To the extent that United asserts that Inter-Con is not a responsible bidder since it may not comply with the Service Contract Act requirements, our Office will not review an affirmative determination of responsibility, absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied--none

of which exceptions are applicable here. 4 C.F.R.  
§ 21.3(m) (5); King-Fisher Co., B-236687.2, Feb. 12, 1990,  
90-1 CPD ¶ 177.

To the extent that United alleges that Inter-Con will  
improperly classify its employees in order to circumvent the  
requirements of the Service Contract Act, the administration  
and enforcement of that Act rests with the Department of  
Labor and is not encompassed in our bid protest function.  
Starlite Servs., Inc., B-210762, Mar. 7, 1983, 83-1 CPD  
¶ 229.

  
James Spangenberg  
Assistant General Counsel