

Honorable Arthur B. Price, Mayor Ex Officio (cont'd)

The term "lowest responsible bidder" imposes not merely a ministerial duty to ascertain who is the lowest bidder, and the pecuniary responsibility of the bidder and his sureties, but confers a discretionary power to grant the work to such a bidder as the officers may deem would perform the work best for the lowest amount. See Commonwealth vs. Mitchell, 82 Pa. 343.

If one is the lowest bidder then the only question is whether he was a responsible bidder. That is a question of fact. A bidder's responsibility involves, among other things, his ability to act and to answer for his undertaking. Selitto vs. Cedar Grove, supra. The rejection of the lowest bid should rest on the basis of irresponsibility supported by evidence. Paterson Contracting Co. vs. Hackensack, supra.

It is stated in 63 C.J.S. Section 1157, b-4, that:

"An award of the contract to the lowest bidder should not be refused unless, on a proper investigation and hearing at which evidence of irresponsibility is introduced, it appears that the lowest bidder is not responsible and the ultimate facts are entered of record."

On this point, it was held in a case in New Jersey, American Water Corporation vs. Mayor, etc., Florham Park, 5 N.J. Misc. 969, that:

"Lowest bidder not being afforded opportunity to show responsibility, contract awarded to next highest bidder must be set aside."

It is our opinion that the term "lowest responsible bidder" in the Baltimore City Charter, as above set forth, is not intended to limit the Board's power to a simple examination of the different bids tendered without reference from whom they come, and blindly select the one solely from the consideration that it is the lowest in price, but it requires the Board to select the bidder who, all things being considered, has ability to respond to the requirements of the contract, having full regard to the subject matter thereof and to the best interests of the people of the City of Baltimore.

Further, it is our opinion that the word "responsible" as employed in the Charter when applied to contracts requiring for their execution, is interpreted as meaning not only pecuniary responsibility but also judgment and skill. This imposes not merely a ministerial duty on the Board of Estimates such as would result did their powers