

Ms. Cooper

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DECISION



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

[Protest Alleging Awardee's Bid Was Unreasonably Low]

FILE: B-200809; B-200810 DATE: October 31, 1980

MATTER OF: Swiss-Tex Incorporated

DIGEST:

1. There is no legal basis to preclude or disturb contract award merely because low bidder submits much lower bid than protester, and possibility of buy-in does not constitute legal basis to challenge award.
2. Evidence of possible anti-trust violations with respect to low bid allegedly designed to drive small businesses from competing is for consideration by Attorney General.

Swiss-Tex Incorporated protests the award of a contract by the General Services Administration (GSA) to the 3M Company under solicitation Nos. 9FCC-OKV-A-A0326/80 and 9FCC-OKV-A-A0330/80.

Swiss-Tex was the apparent low bidder on earlier solicitations. Due to an ambiguity in the solicitations, however, no award was made and the requirements were resolicited under the solicitations which are the subjects of this protest. The 3M Company was the low bidder on the late solicitations. Swiss-Tex alleges that 3M's bids were unreasonably low and represent an attempt to discourage small businesses from competing.

We have repeatedly held that a bidder's submission of a bid which a competitor considers too low does not constitute a legal basis for precluding or disturbing a contract award. Columbia Loose-Leaf Corporation, B-193659, January 23, 1979, 79-1 CPD 45; Swedlow, Inc., B-191629, May 8, 1978, 78-1 CPD 345. While a below-cost bid may indicate the possibility of a buy-in, that also is not

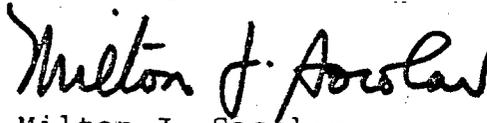
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B-200809; B-200810

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a proper basis upon which to challenge an award since there is nothing inherently illegal about a buy-in. If the protester has any evidence to indicate that 3M's bidding approach here is designed to drive small business from competing and thus may be in violation of the anti-trust laws, the evidence should be submitted to the contracting officer for possible referral to the Attorney General in accordance with Federal Procurement Regulations subpart 1-1.9. Inflated Products Company, Inc., B-190877, May 11, 1978, 78-1 CPD 362.

The protest is dismissed.



Milton J. Socolar
General Counsel