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Comptroller

DECISION



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

FILE: B-204872

DATE: March 10, 1982

MATTER OF: PSI Mobile Products, Inc.

DIGEST:

1. The mere fact that bidder may have submitted a below-cost bid does not constitute a legal basis for precluding a contract award.
2. GAO will not consider protest concerning small business size status, since Small Business Administration is empowered to conclusively determine small business size status.

PSI Mobile Products, Inc. (PSI), protests the proposed award of a contract to Southwest Truck Body Company (Southwest), the low bidder, under solicitation No. DAAJ09-81-B-0899, a small business set-aside issued by the Department of the Army, Troop Support and Aviation Materiel Readiness Command.

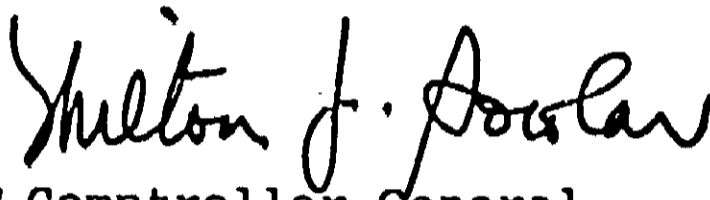
PSI, the second low bidder, alleges that Southwest's bid was unreasonably low. PSI suggests that the low price may have been due to a failure to consider essential specifications which were contained in certain pages missing from Southwest's original copy of the solicitation. In addition, the protester contends that Southwest does not qualify as a small business concern.

The protest is denied in part and dismissed in part.

Regardless of the protester's allegations to the contrary, the record indicates that, prior to bidding, Southwest did receive and consider the specifications including those contained in certain pages which the agency had originally omitted from the solicitation. With respect to the allegation that the low bidder's price was unreasonably low, we have held that the mere fact that a bidder may have submitted a below-cost bid

does not constitute a legal basis for precluding a contract award. Kleen-Rite Corporation, B-190411, November 8, 1977, 77-2 CPD 354. Therefore, this aspect of PSI's protest is denied.

We will not consider PSI's contention that Southwest should be precluded from an award on this small business set-aside contract because Southwest is not a small business. Under 15 U.S.C. § 637(b)(6) (1976), the Small Business Administration is empowered to conclusively determine matters of small business size status for Federal procurement and sales purposes. InterTechnology Corporation, B-202818, April 24, 1981, 81-1 CPD 320. Accordingly, this aspect of the protest is dismissed.

for 
Comptroller General
of the United States