

DECISION

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

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FILE: B-216715 **DATE:** February 5, 1985
MATTER OF: AT&T Information Systems

DIGEST:

There is no legal basis to object to acceptance of possibly below-cost bid by grantee.

AT&T Information Systems complains of the award of a federally funded contract to General Telephone Company of Michigan under solicitation No. 84-MAO142, issued by the State of Michigan Department of Management and Budget for a telephone system to be installed at Camp Grayling, a National Guard facility. We consider the complaint in accordance with the Public Notice entitled "Review of Complaints Concerning Contracts Under Federal Grants," 40 Fed. Reg. 42406 (1975). AT&T contends that General Telephone's bid is so low that it cannot provide new telephone cable as required by the solicitation, and suggests that General Telephone either plans to request a contract modification allowing use of the existing telephone cable at Camp Grayling or to sustain a loss on the contract.

The complaint is denied.

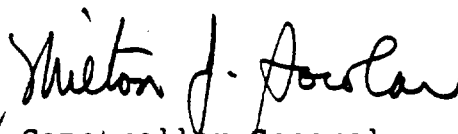
As issued on May 30, 1984, the solicitation provided that the contractor could negotiate with the owner of the existing telephone cable at Camp Grayling. If the contractor purchased the existing cable for less than the cost of new cable, the contract price would be reduced by 65 percent of the net savings. The existing cable is owned by General Telephone. In anticipation that the low bidder might be General Telephone, the solicitation provided that if the owner of the cable received a contract, the contractor would be paid for the cable an amount determined to be its "present worth." On June 26, the solicitation was amended to require that cable was to be "all new."

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Before contract award, General Telephone confirmed to the Michigan Department of Management and Budget its bid price and the fact that the price was for new cable. AT&T Information Systems contends, however, that a check of cable prices in Michigan by an independent cable contractor established that new cable could not be provided for less than the price bid by AT&T. General Telephone's cable price of \$206,084 is considerably less than AT&T's price of \$364,640. AT&T concludes that General Telephone priced its bid on the assumption that it could provide its existing cable.

We are aware of no Michigan laws or regulations addressing offered prices which may be below cost. In the absence of contrary state law, basic tenets of federal procurement law are applicable. E.P. Reid, Inc., B-189944, May 9, 1978, 78-1 CPD ¶ 346. Under the laws and regulations governing procurements by federal agencies, there is no ground to object to an award on the basis that a bid may be below cost. Western Waste Management, B-216392, Sept. 24, 1984, 84-2 CPD ¶ 344. AT&T's concern, that General Telephone may seek to modify its contract to allow use of existing cable, is not grounds for rejecting a bid. Contracting officers are, however, required to insure that losses resulting from below cost bidding, or "buying in," are not recovered through change orders or otherwise. Id.

The complaint is denied.

for 
Comptroller General
of the United States