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John A. Carter

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**DECISION**



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

**B-190929**

**FILE:**

**DATE: March 3, 1978**

**MATTER OF:**

**Consolidated Elevator Company**

**DIGEST:**

Neither possibility of a buy-in nor allegation of excessively low bid provides a basis upon which award of contract may be challenged. Rejection of bid for too low price requires a determination of nonresponsibility, and this Office no longer reviews affirmative determination of responsibility absent circumstances not present here.

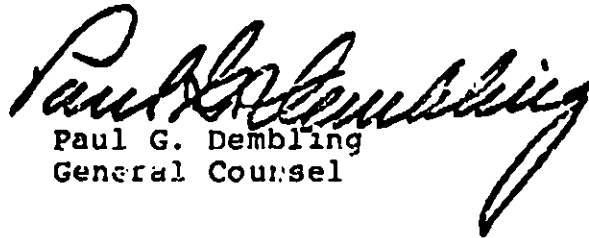
Consolidated Elevator Company, Inc. (Consolidated), has protested against allegedly unfair price competition in connection with invitation for bids (IFB) No. 3-8-19 issued by the National Park Service for the procurement of elevator maintenance services for the John F. Kennedy Center for the Performing Arts.

Consolidated, a small business, contends that the Otis Elevator Company (Otis), a large business, has engaged in what amounts to predatory pricing for the purpose of eliminating its small business competitors. Consolidated alleges that Otis reduced its bid significantly on the present procurement from that bid on earlier procurements although the specifications require increased operating costs and the costs of material and labor have increased. Consolidated suggests that this is only one instance of a developing pattern of Otis significantly reducing its charges when faced with competition from qualified small businesses. Consolidated asks that Otis be disqualified from the present competition on the basis of entering a nonresponsible unbalanced bid and that award be made to the next lowest responsive bidder.

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The possibility of a buy-in or the submission of a below-cost bid is not a proper basis upon which to challenge the validity of a contract award. Inter-Con Security Systems, Inc., B-189165, June 15, 1977, 77-1 CPD 434. Proper rejection of a bid as extremely low requires a determination that the bidder is nonresponsible. See Futronics Industries, Inc., B-185896, March 10, 1976, 76-1 CPD 169. This Office no longer reviews protests against affirmative determinations of responsibility unless either fraud is shown on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been met. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64. Neither exception is alleged in this case.

Accordingly, the protest is dismissed.

  
Paul G. Dembling  
General Counsel