

**DECISION**



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

10,283

FILE: B-194708

DATE: May 23, 1979

MATTER OF: McCotter Motors, Inc.

CN6 00313

**DIGEST:**

1. Protest of Government's use of competitive solicitation to test market in deciding whether to exercise option under current contract is denied because this method is specifically permitted by DAR §§ 1-505(c) and (d) (1976 ed.).
2. Protest is summarily denied where protester's initial submission demonstrates affirmatively that protest is without legal merit.

McCotter Motors, Inc. (McCotter), has protested invitation for bids (IFB) F07603-79-B-001, issued by Dover Air Force Base, Delaware. *AGC00124*

McCotter holds the present contract, which is due to expire on July 31, 1979. That contract contains a provision giving the Government the option to renew the contract for 2 years. The protested IFB reserves the right to reject all bids if the apparently successful bidder does not offer a price lower than the current contract price. Presumably, in that case the Government would exercise the option.

McCotter contends <sup>ed</sup> that the Government should either exercise the option or be bound by the results of the competitive bidding. McCotter states that giving the Government the choice to either accept the low bid or exercise the option "tends to destroy the competitive intent of the overall Government procurement system."

We believe the protest may be denied on the basis of the protester's initial submission and without further development pursuant to our protest procedures, 4 C.F.R. part 20, et seq. (1978), because the submission, read in the light most

[Incumbent Protests Contract  
AWARD]

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favorable to the protester, affirmatively demonstrates that the protest is without legal merit. Inflated Products Company, Inc., B-190877, May 11, 1978, 78-1 CPD 362.

Defense Acquisition Regulations (DAR) §§ 1-1505(c) and (d) (1976 ed.) specifically permit the Government to test the market with a competitive solicitation when deciding whether to exercise an option, and to exercise the option if the solicitation fails to yield a better price. See also A.C. Electronics, Inc., B-185553, May 3, 1976, 76-1 CPD 295. Therefore, we see nothing improper in the action complained of by McCotter.

*There was* *taken by the Air Force*  
Accordingly, the protest *was* summarily denied.

*R. F. K. 114*  
Deputy Comptroller General  
of the United States