

Fate of 23andMe genetic data still not settled amid bankruptcy fight

The bankrupt firm has proposed reopening the auction after agreeing to sell most of its assets to Regeneron.

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By [Daniel Gilbert](#) and [Elizabeth Dwoskin](#)

The fate of genetic data belonging to millions of 23andMe customers is again up in the air, as the bankrupt company seeks a judge's permission to consider another bid from its co-founder and undisclosed financial backers after previously [accepting an offer](#) from Regeneron Pharmaceuticals.

A nonprofit [research institute](#) backed by Anne Wojcicki, 23andMe's co-founder and former CEO, has been pressing 23andMe to consider additional bids purportedly topping Regeneron's \$256 million cash offer last month, arguing that the bankruptcy auction was closed prematurely. That has put 23andMe in a bind, with the firm saying in court filings it was at risk of litigation unless it effectively reopened the auction to entertain final offers from Wojcicki's group and Regeneron.

So 23andMe is proposing a compromise that would allow TTAM Research Institute, founded by Wojcicki, to make a final bid and give Regeneron the opportunity to make a counteroffer. Should TTAM prevail, 23andMe would pay Regeneron a \$10 million breakup fee.

"It's rare to reopen it, full stop," William Organek, a bankruptcy law professor at the City University of New York, said of the auction. That typically only happens, he said, "when there's a fraud or a grossly inadequate price."

The Wall Street Journal [reported](#) that TTAM offered \$305 million at a hearing Wednesday and that a bankruptcy judge signaled support for reopening the auction.

Regeneron has said in court filings that it is being treated unfairly. "Because of Regeneron's participation, the bidding process was supercharged," the drugmaker said in a filing Wednesday. The bidding culminated in the \$256 million deal after it began at \$50 million. "Regeneron would never have participated in this auction had it known that winning the auction would just result in a further takeover attempt" from Wojcicki and her backers.

Still, Regeneron said it would not object to the compromise proposed by 23andMe to entertain a final offer from Wojcicki's group.

As of Tuesday, TTAM and Wojcicki had opposed the compromise and wanted another round of open-ended bidding, not just final offers.

Representatives for 23andMe and Regeneron declined to comment on the bankruptcy proceedings. Wojcicki didn't respond to a request for comment Thursday.

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The bankruptcy of 23andMe has raised privacy concerns over the uniquely sensitive data it gathered from more than 15 million customers, who collected their saliva and sent it to the company to learn about their ancestry and get insights into their health. The San Francisco start-up, valued at about \$6 billion near its peak in the fall of 2021, sought to leverage its trove of genetic data to provide health services and discover medicines, but those efforts proved unsustainable.

After multiple attempts by Wojcicki to take the company private, 23andMe filed for bankruptcy in March.

The special committee overseeing the company during bankruptcy has called it a success, noting that it secured the \$256 million offer from Regeneron just weeks after rejecting a \$40 million bid from Wojcicki, who was then the CEO and controlling shareholder. In the bankruptcy auction, the price shot up to \$300 million when it came down to the final two bidders, Regeneron and Wojcicki's group, according to a person familiar with the process.

TTAM said in its filing Tuesday that 23andMe determined it "failed to demonstrate its ability to fund a bid greater than \$250 million."

Regeneron has said it would acquire substantially all of 23andMe's assets, excluding its telehealth business, and would continue offering the consumer DNA testing service. The New York-based drugmaker intends to use 23andMe's DNA trove to enhance its efforts to discover genetic-based medicines.
