

DECISION



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

9327

FILE: B-194123

DATE: March 6, 1979

MATTER OF: Shawver & Son, Inc. DLV-01065 [Untimely Protest of IFB Cancellation]

DIGEST:

Protest filed more than 10 working days after protester was advised that IFB was canceled and procurement was set aside for SBA section 8(a) contractor is untimely and not for consideration on the merits.

org case ABC0002

AGC00035

Shawver & Son, Inc. (Shawver) has protested the Department of the Air Force's (Air Force) decision to cancel invitation for bids (IFB) No. F34650-79-B-0024 and to set aside the procurement for a minority contractor under the Small Business Administration's (SBA) "8(a)" program.

org case

On January 19, 1979, the Air Force notified Shawver that the IFB had been canceled and that the procurement would be set aside for minority firms under SBA's "8(a)" program. On February 13, 1979, Shawver protested this decision to our Office, stating that it was allowed to bid on the first phase of the project and that it felt it should be allowed to bid on the second phase.

Under our bid protest procedures a protest must be filed no later than 10 working days after the basis of protest is known or should have been known. 4 C.F.R. § 20.2(b)(2) (1978). Since Shawver received notice of the cancellation on January 19, 1979, and did not protest the cancellation until February 13, 1979, its protest is untimely and will not be considered on the merits. However, we note that the authority of a contracting officer to cancel a solicitation is extremely broad and in the absence of bad faith or an abuse of discretion, a decision to cancel a solicitation will not be questioned. ABC Demolition Corporation, B-192111, November 13, 1978, 78-2 CPD 339. Furthermore, a determination to set aside a procurement under section 8(a) of the Small Business Act, 15 U.S.C. § 637 (1976), is a matter for the contracting agency and SBA, and unless the protester shows

@61

@08

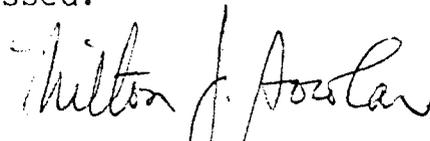
@06

~~007915~~

dec

008  
fraud on the part of the procuring officials or such a willful disregard of the facts as to necessarily imply bad faith, our review is limited to determining whether procuring officials have followed relevant rules and regulations in arriving at their decision to set aside the procurement. Delphi Industries Inc. - request for reconsideration, B-193212, January 30, 1979, 79-1 CPD \_\_\_.

The protest is dismissed.

  
Milton J. Socolar  
General Counsel