

13911 PL-2

DECISION



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

FILE: B-197443

DATE: June 6, 1980

MATTER OF: Management Services
Incorporated 4772

DIGEST:

1. Agency need only establish reasonable basis for cancellation of RFP and not "compelling reason" as required by Defense Acquisition Regulation 2-404.1(a) for cancellation of invitation for bids.
2. Agency justifiably may cancel RFP which limited performance to one location when only one proposal is received and agency anticipates that revising specifications to allow performance at additional locations will increase competition.

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~~305~~ Management Services Incorporated (MSI) protests the cancellation of request for proposals (RFP) DACW63-80-R-0001, issued by the U.S. Army Corps of Engineers, Fort Worth District (Corps). The RFP solicited proposals for the operation, storage, maintenance and repair of the Corps' aircraft. MSI was the only firm which submitted a proposal.

The Corps maintains that it canceled the RFP because it intends to revise the specifications to increase competition. The Corps anticipates that as a result of these changes, six additional firms will be able to submit proposals upon resolicitation.

MSI questions why the specifications were revised for this procurement when, according to MSI, the restrictive aspects of the procurement had not changed since the Corps first required these services. Citing Defense Acquisition Regulation (DAR) 2-404.1(a) (1976 ed.), which requires a "compelling reason" to cancel an "invitation"

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[Protest Against RFP Cancellation]

after bid opening, the protester argues that other potential offerors simply were not interested in this procurement. MSI emphasizes that portion of the regulation which states that changes in requirements resulting in modification or cancellation should be made before bid opening and urges that the Corps has breached its obligation in this regard. The protester would require the Corps to make an award to it and simply negotiate any other changes the Corps requires. We find no merit to the protest.

We believe MSI's reliance on DAR 2-404.1(a) is misplaced because this regulation is directed only at cancellations of solicitations in formally advertised procurements and not at cancellations in negotiated procurements. Although we have noted that many of the principles in that regulation are equally applicable to cancellations of RFPs, the possible justifications for canceling an RFP are not limited to the same grounds. See United States District Court for the District of Columbia, 58 Comp. Gen. 451 (1979), 79-1 CPD 301. For example, while the regulation states that "[e]very effort shall be made to anticipate changes in a requirement prior to the date of opening" to allow bidders to change their bids, the reason for this is to prevent the need for cancellation of the invitation after bid prices have been exposed. There is, however, no public opening of offers received under a negotiated procurement, DAR 3-507.2(a), and thus the public exposure of competitive positions does not occur when negotiated procedures are used.

Therefore the Government need not have a "compelling reason" to cancel an RFP because offerors are not faced with the competitive disadvantage inherent in the price exposure of a public bid opening. While in all cases an agency should make every effort to have its solicitations reflect its actual needs, an agency may amend or cancel a RFP after receipt of proposals if it reasonably believes at that time that its needs are not properly indicated by the RFP. Gill Marketing Co. Inc., B-194414.3, March 24, 1980, 80-1 CPD 213. MSI's insistence that the agency must have a "cogent" or "compelling" reason to cancel the RFP

is not correct as the agency need only establish a reasonable basis for the cancellation. See Federal Leasing, Inc., et al., 54 Comp. Gen. 872 (1975), 75-1 CPD 326.

To encourage additional competition the Corps anticipates changing the RFP in the following manner:

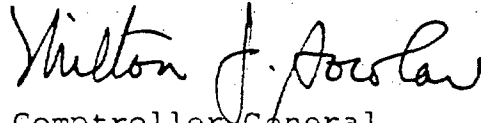
- 1) The RFP required the contractor to operate from the home base, Love Field, Dallas, Texas. The revised RFP will allow a contractor to operate from two other airfields in the Dallas area.
- 2) The RFP will be revised to require that the contractor have an existing maintenance and repair facility at the home base of the aircraft. The Corps advised our Office that the home base will be any one of the three airfields, and that the contractor could either set up or have an existing repair facility at the field where it operates.
- 3) The qualifications for the flight crew will be upgraded.

We have recognized that if competition is not achieved under the initial solicitation the contracting officer justifiably may cancel an RFP if he believes that a resolicitation with revised specifications will enhance competition. Semiconductor Equipment Company -- Reconsideration, B-187159, May 4, 1977, 77-1 CPD 301. In an analogous case, we did not object to a decision to cancel a solicitation based upon a belief that removal of a geographic restriction from the solicitation would increase competition. Micro Labs, Inc.; Bowman Enterprises, Inc., B-193781, June 18, 1979, 79-1 CPD 430.

Here, since MSI was the only firm which submitted a proposal, we believe it is reasonable for the Corps to anticipate additional competition by the removal of a single home base requirement. Further, by expanding the permissible sites for the contractor's maintenance and repair facilities, the Corps has also removed an impediment to competition by no longer requiring a facility

only at Love Field. Thus, these revisions could have the same beneficial effect on competition which we previously recognized could result by enlarging a solicitation's geographic restriction. See 50 Comp. Gen. 769 (1971); Micro Labs, Inc., et al., supra. We therefore have no basis to object to the cancellation.

The protest is denied.



For the Comptroller General
of the United States