

**DECISION**

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

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**FILE:** B-212112.3**DATE:** August 29, 1983**MATTER OF:** J. J. Vinci Oil Co.**DIGEST:**

GAO will dismiss a protest against allegedly defective specifications when the solicitation in which they are contained has been canceled. If the agency issues a new solicitation that the protester believes is unduly restrictive, the firm may file a new protest listing its specific objections to the new solicitation.

The J. J. Vinci Oil Co. protests the specifications for interim storage of crude oil for the Strategic Petroleum Reserve contained in invitation for bids No. DE-FB01-83EP31600, issued May 20, 1983, by the Department of Energy. We dismiss the protest.

Vinci argues that the solicitation requirement for minimum tank capacity of 100,000 barrels is not fair to small business. The firm also argues that either welded (as required) or riveted steel tanks would meet Government needs and that a requirement for floating roofs should be waived or left to individual states where the oil will be stored.

On August 18, 1983, the Department of Energy canceled the protested solicitation in its entirety, advising all bidders that the requirement had been withdrawn. The record indicates that due to recent Congressional action, the Strategic Petroleum Reserve's fiscal 1983 "fill" will not exceed its permanent storage capacity, and that above-ground, interim storage facilities therefore are no longer needed.

Two other protesters, Fina Supply, Inc. and Paktank Corporation, have withdrawn protests in which they also challenged the agency's requirements as unduly restrictive. Vinci, however, has expressed concern that the Department of Energy may include similar requirements in a

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future solicitation, and requests that we consider its protest in spite of cancellation of the current one.

We will not consider a protest against allegedly defective specifications when the solicitation in which they are contained has been canceled: cancellation renders the protest academic. See American Electronic Laboratories, Inc., B-199930, October 16, 1980, 80-2 CPD 289. If the Department of Energy issues a new solicitation that Vinci believes is unduly restrictive, the firm may, of course, file a new protest listing its specific objections to such a solicitation. Power Testing, Inc., B-195267, November 13, 1979, 79-2 CPD 350.

The protest is dismissed.

*Harry R. Van Cleve*

Harry R. Van Cleve  
Acting General Counsel