

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

27019

**FILE:** B-211484**DATE:** December 13, 1983**MATTER OF:** West Coast Fire Service, Inc.**DIGEST:**

1. GAO will not review an agency decision to perform work with its own employees rather than to contract out except in limited circumstances not present here.
2. Claim for bid preparation costs is denied where the claimant has not shown that the agency abused its discretion in canceling solicitation.

West Coast Fire Service, Inc. (West Coast), claims bid preparation costs for itself and all other qualified bidders because of the cancellation of invitation for bids (IFB) No. F42650-82-B-3337 issued by Ogden Air Logistics Center (Ogden), Hill Air Force Base, Utah.

The claim for bid preparation costs is denied.

Ogden issued the IFB, a 100-percent small business set-aside for fuels management services, on January 14, 1983. The solicitation was for a cost comparison study in accordance with Office of Management and Budget (OMB) Circular A-76 to determine whether the Air Force should contract out or continue in-house performance of the required services. The bid opening date originally scheduled for March 2, 1983, was extended to March 16, 1983. On March 11, 1983, the bid opening date was extended indefinitely. On April 6, 1983, the IFB was canceled and all bids were returned unopened.

At the time the IFB was issued, the contracting officer fully expected to make an award in the event that it was more cost effective to contract out rather than retain in-house the required services. However, recognizing the possibility that the solicitation might be canceled at any time prior to award due to a change in Air Force policy, the contracting officer included the following clause in the solicitation:

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"M-33 CANCELLATION OF SOLICITATION PRIOR TO AWARD

This solicitation is subject to cancellation without cause as a result of a change in HQ AFLC [Headquarters, Ogden Air Logistics Center] policy at any time prior to award of contract."

The agency subsequently determined that, for reasons of national defense, the fuels management services should continue to be performed in-house and canceled the IFB.

West Coast argues that the government "did not do its job" in handling this solicitation. West Coast appears to be arguing that the agency improperly issued or canceled the IFB and that West Coast and all other qualified bidders should be awarded bid preparation costs.

Generally, we do not review an agency decision to perform work with its own employees rather than to contract for the services because we regard the decision as a matter of policy within the province of the executive branch. Monarch Enterprises, Inc., B-209904, March 25, 1983, 83-1 CPD 307. We only review such cases when a competitive solicitation has been issued for the purpose of ascertaining the cost of contracting and it is alleged that the cost comparison between performing the work in-house and contracting is faulty or misleading. Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38. This limited exception to our review of these cases is not applicable here because the solicitation was canceled before bid opening and all bids were returned unopened.

With respect to the request for reimbursement of bid preparation costs, we have held that such costs can be paid only upon a showing that the contracting agency's actions were arbitrary or capricious and that there was a substantial chance that the claimant would have received the award but for those actions. Monitor International, Inc., B-200756, September 14, 1981, 81-2 CPD 214. Because bidders were put on notice regarding the possibility of IFB cancellation for changes in policy and because the agency had a reasonable policy basis (national security) for deciding to perform the services in-house, there is no reason to find that the contracting officer's actions were arbitrary or capricious. Since the cancellation here

constituted a reasonable exercise of discretion by the Air Force, that alone is sufficient to deny the claim for bid preparation costs.

*for Milton F. Aoulan*  
Comptroller General  
of the United States