

DECISION



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

28992

FILE: B-215531

DATE: August 1, 1984

MATTER OF: Schonstedt Instrument Company

DIGEST:

Agency's decision prior to closing date of solicitation to cancel solicitation and perform in-house will not be reviewed, since decision whether to perform in-house generally is matter of executive policy not within protest function.

Schonstedt Instrument Company (Schonstedt) protests cancellation by the National Aeronautics and Space Administration (NASA) of request for proposals (RFP) No. 5-76109/230. The RFP sought offers to supply triaxle magnetometers for NASA's Cosmic Background Explorer; however, NASA subsequently decided to build the equipment in-house.

We dismiss the protest.

Initially, we had some concern as to whether the protest was timely. However, it is unnecessary to resolve that issue, since we have now determined that the cancellation issue is not for our review.

As a general rule, our Office does not review an agency decision concerning whether work should be performed in-house or by a contractor, since we regard this to be a matter of executive branch policy not within our protest function. Jets, Inc., 59 Comp. Gen. 263 (1980), 80-1 C.P.D. ¶ 152; Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 C.P.D. ¶ 38.

We have, however, recognized a limited exception to this rule and found review to be appropriate when an agency utilizes the procurement system to aid in its in-house/contract-out determination. Where an agency notifies offerors of cost comparison procedures it intends to use in determining whether it will or will not award a contract, we will review an allegation that the agency did not follow the guidelines it established. Midland Maintenance, Inc., B-202977.2, Feb. 22, 1982, 82-1 C.P.D. ¶ 150. Such review is undertaken because we believe it would be detrimental to

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the procurement system if, after the submission of offers, an agency were permitted to alter the procedures it had established and upon which bidders had relied. Jets, Inc., supra.

We do not believe the facts presented here fit within the limited exception described above. Here, there is no indication that NASA used the procurement system in making its determination to build the solicited items in-house. No cost comparison procedures were established, nor did NASA wait until offerors had prepared and submitted their final proposals before making its decision. Rather, the RFP was canceled some 2 weeks prior to the established closing date.

In circumstances such as this, where the procurement system is not used to determine whether work should be performed in-house, review by our Office is not appropriate. Accordingly, the general rule that a decision to perform work in-house is a policy matter within the province of the executive branch and not within our protest function is applicable.

Richard R. Pearson

For Harry R. Van Cleve
Acting General Counsel