

DECISION

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

FILE: B-219992.2

DATE: September 20, 1985

MATTER OF: Aul Instruments, Inc.

DIGEST:

Agency decision to cancel brand name or equal solicitation and resolicit is not unreasonable merely because of exposure of protester's bid price where the brand name manufacturer did not receive the solicitation, the synopsis published in the Commerce Business Daily was misclassified, and only one responsive bid was received.

Aul Instruments, Inc. protests the cancellation of invitation for bids (IFB) No. DAAB07-85-B-H034, a brand name or equal solicitation issued by the Army for a PP-7462 power supply. We dismiss the protest.

The IFB listed a part manufactured by Christie Electric Corporation as the brand name item. Christie did not submit a bid, however, and of the three bids received, only one, the protester's, was found responsive. After bid opening, Christie filed a protest with our Office stating that (1) despite numerous requests to the contracting agency, it had not received a copy of the IFB; and (2) the synopsis of the IFB published in the Commerce Business Daily (CBD) had appeared under the wrong category heading. The Army then decided to cancel, based on Christie's absence from the competition and the fact that only one responsive bid was received.

Because of the potential adverse impact on the competitive bidding system of cancellation after bid prices have been exposed, a contracting officer must have a compelling reason to cancel an IFB after bid opening. Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.404-1 (1984); Dyneteria, Inc., B-211525.2, Oct. 31, 1984, 84-2 CPD ¶ 484. In considering cases involving cancellations, we recognize that the contracting officer has broad discretion to decide whether there is a compelling reason to cancel, and we limit our review to determining whether the exercise of

that discretion is reasonable. Hoyer Construction Co. Inc., B-216825, Feb. 13, 1985, 85-1 CPD ¶ 194.

In this case, the protester argues that since it is prejudiced by cancellation and resolicitation after its bid price has been exposed, the IFB should not have been canceled. The essence of the Army's exercise of discretion in deciding whether to cancel, however, is balancing the impact of exposing bid prices against the need to remedy the adverse effects on competition of the failure to solicit the brand name manufacturer, the misclassification of the CBD notice, and the submission of only one responsive bid. In a somewhat similar case, we found no basis to object to an agency's decision to cancel and resolicit given the cumulative impact of the agency's deletion of the incumbent contractor from the bidders mailing list, the failure to synopsise in the CBD, and the small number of manufacturers of the item being procured. See Scott Graphics, Inc., et al., 54 Comp. Gen. 973 (1975), 75-1 CPD ¶ 302. On the other hand, as the protester notes, in cases with similar facts we have upheld the agency's decision not to cancel the solicitation. See, e.g., Solon Automated Services, Inc., 63 Comp. Gen. 312 (1984), 84-1 CPD ¶ 473. These cases indicate that it is for the contracting agency in the first instance to decide whether cancellation is justified, based on its assessment of how best to preserve the integrity of the competitive bidding system, and that we will not disturb that particular decision unless the protester is able to show that it is unreasonable. See Hoyer Construction Co., Inc., B-216825, *supra*. Under the circumstances of this case, we find no basis to object to the Army's decision to cancel and resolicit, since the protester has neither alleged nor shown that the Army's exercise of discretion here was unreasonable.

The protest is dismissed.



Seymour Efros
Associate General Counsel