



Comptroller General
of the United States
Washington, D.C. 20548

1234273

Decision

Matter of: Williams College
File: B-259351
Date: March 23, 1995

Richard C. Henneberry for the protester.
Terrence J. Tychan, Department of Health & Human Services,
for the agency.
Peter A. Iannicelli, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest that the contracting officer improperly canceled a request for proposals is denied where the contracting officer reasonably determined that the requested services were not needed because they would duplicate services already being provided by various universities and other organizations under a grant program sponsored by the agency.

DECISION

Williams College protests the Department of Health and Human Services's (HHS) cancellation of request for proposals (RFP) No. NIH-ES-94-44. The protester contends that the agency's action was "arbitrary and capricious" and lacked a reasonable basis. We deny the protest.

Issued on June 7, 1994, by HHS' National Institute of Environmental Health Sciences (NIEHS), the RFP solicited offers for proposals for: (1) identifying and evaluating the impact of environmental factors on individuals genetically predisposed to neurodegenerative disorders; (2) collaborating with other organizations to convene a workshop on the "Epidemiology of the Neurodegenerative Disorders"; and (3) initiating and maintaining community outreach and environmental education efforts in environmental health. Williams College's proposal was the only offer received by the July 7 closing date.

The evaluation panel evaluated Williams College's proposal as technically acceptable. During the evaluation, the evaluators noted that there was considerable overlap between the RFP requirements and other work that was being supported by NIEHS grants to various universities and the World Health Organization as part of the NIEHS Extramural program and

informed the project officer of their concerns about the overlapping requirements. The project officer concurred and requested that the contracting officer cancel the procurement. By letter of September 15, 1994, the contracting officer notified Williams College that she had determined it to be in the government's best interest to cancel the procurement and to obtain the services under existing grants under the NIEHS Extramural program.

The protester argues that budgetary constraints constitute the real reason for canceling the procurement, not the fact that the RFP's statement of work overlaps with work that is being or will be performed by grantees. Moreover, Williams College suggests that the RFP was issued in error, that the government's error caused Williams College to incur considerable proposal preparation expense, and, therefore, that the NIEHS should be required to award it the contract.

In a negotiated procurement, the contracting officer has broad authority to decide whether to cancel an RFP and need only establish a reasonable basis for the cancellation. See AT&T, B-251177; B-251177.2, Mar. 16, 1993, 93-1 CPD ¶ 236. All proposals received in response to an RFP may be rejected if the agency determines that cancellation is in the government's best interest. Federal Acquisition Regulation § 15.608(b)(4); Total Design Servs., B-257128.2, Oct. 17, 1994, 94-2 CPD ¶ 142. Further, an agency may cancel a solicitation no matter when the information precipitating the cancellation arises, even if it is not until proposals are submitted and the protester has incurred costs in pursuing the award. Brackett Aircraft Radio Co., B-246282, Jan. 8, 1992, 92-1 CPD ¶ 43.

Here, the contracting officer relied upon the advice of the evaluation panel--which included three experts in the field of neurotoxicology--in determining that award of a contract to Williams College would duplicate services provided by various grant recipients. For example, the agency had previously contributed \$20,000 to sponsor a meeting of the International Neurotoxicology Association (INA) meeting at which the discussion will focus on neurodegenerative diseases and which is scheduled for the same time period during which Williams College proposed to conduct a symposium entitled "The Etiology of Neurodegenerative Disorders: A Critical Analysis." The agency determined

Webster's New Collegiate Dictionary defines etiology as "all of the causes of a disease or abnormal condition."

that the symposium proposed by Williams College would, in large part, duplicate the INA program that HUD was already sponsoring. Based upon this and other instances of parallel services already being supported by NIEHS grants, the agency reasonably determined that it did not need the services requested in the RFP and offered by Williams College.

Where, as here, the agency determines that it no longer has a need for the services, cancellation is appropriate. See Total Design Servs., supra. The protester's mere disagreement with the agency's determination that it no longer needs the requested services does not show the agency's determination of its needs to be unreasonable or provide a basis for requiring the agency to award a contract for services that the agency does not want. Moreover, the protester's assertion that budgetary constraints were the real reason for canceling the RFP provides no basis for sustaining the protest since a contracting officer may properly cancel a solicitation where lack of funds causes the agency to reassess its minimum needs and reduce its requirements significantly. AT&T, supra. While it is unfortunate that Williams College may have incurred proposal preparation costs in pursuing award under the RFP, this provides no basis for it to receive the contract or to recover those costs. Id.

The protest is denied.

\s\ Paul Lieberman
for Robert P. Murphy
General Counsel