

DOCUMENT RESUME

02374 - [A1472480]

[Preaward Decision to Cancel Request for Proposals]. B-188135.
May 20, 1977. 2 pp.

Decision re: General Automatic Corp.; by Robert F. Keller,
Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law II.

Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).

Organization Concerned: Department of the Army: Army
Tank-Automotive Materiel Readiness Command, Warren, MI.

Authority: A.S.P.R. 3-805.4(b). B-184194 (1976). B-185787
(1976). 55 Comp. Gen. 358.

The protester objected to the failure of agency to award to it a contract under a request for proposals for air-filter elements. GAO did not find objectionable the preaward decision of the procuring agency to cancel the request for proposals, which limited purchase to a specific firm's part number or to identical items supplied to that firm, and to resolicit on a basis which will permit wider competition. The protest seeking consideration of a proposal which had been rejected as technically unacceptable under the original restrictive solicitation was therefore academic. (Author/SC)

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DECISION



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

FILE: B-188135

DATE: May 20, 1977

MATTER OF: General Automatic Corporation

DIGEST:

GAO does not find objectionable preaward decision of procuring agency to cancel RFP, which limited purchase to specific firm's part number or to identical items supplied to that firm, and to resolicit on basis which will allow wider competition. Protest seeking consideration of proposal which had been rejected as technically unacceptable under original restrictive solicitation is therefore academic.

General Automatic Corporation (GAC) protests the failure of the U. S. Tank-Automotive Materiel Readiness Command (TARCOM) to award to it a contract under Request for Proposals (RFP) DAAE07-76-R-2454, which contemplates the purchase of a quantity of air filter elements to be used in M113A1 armored personnel carriers. The RFP specifies that the purchase is to be restricted to Donaldson Company part number P10-8210 or to identical items which have been previously supplied to that firm. GAC argues that TARCOM should not have rejected as technically unacceptable its offer of items to be manufactured in accordance with the technical data package for equivalent military part number 11598399. This military part number had been inserted in section E, that portion of the solicitation describing the desired product, for "ID purposes only."

After receipt of GAC's protest, TARCOM concluded that the solicitation was unduly restrictive. Accordingly, TARCOM proposes to cancel the RFP and resolicit the requirement pursuant to Armed Services Procurement Regulation § 3-805.4(b), after developing a data package suitable for competition. Under the cited regulation cancellation of a negotiated procurement is appropriate if, as here, a change or modification is so substantial as to warrant complete revision of the solicitation.

We believe the cancellation action is justified. We have held that deciding whether to cancel an RFP is in the first instance a matter for the sound judgment and discretion of responsible agency officials, and is subject to objection only if clearly shown

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to be without a reasonable basis. Environmental Protection Agency-- Request for Modification of GAO Recommendation, B-184194, July 19, 1978, 78-2 CPD 50, at page 8.

GAC believes that cancellation and resolicitation are unnecessary because the information necessary to manufacture this item is available either from the technical data package supporting the military part number referenced in the RFP or from other sources. Nonetheless, the only description provided in the solicitation was a Donaldson part number and offerors were required to meet that restrictive condition to be responsive. This discouraged competition by other potential suppliers. We cannot conclude that cancellation is unwarranted in such circumstances. Non-Linear Systems, Inc., 55 Comp. Gen. 358 (1975), 75-2 CPD 219. See also NJE Corporation, B-185787, August 3, 1976, 76-2 CPD 117, in which we held that cancellation of an RFP was proper where an agency had determined that negotiation rather than formal advertising no longer was justified.

Accordingly, we do not object to the contracting officer's decision to cancel the solicitation and resolicit with a suitable data package to permit competition. In view of this, GAC's additional protest concerning the rejection of its proposal on technical grounds under the original solicitation becomes academic.

Accordingly, the protest is denied.

A. J. Kester
Deputy Comptroller General
of the United States