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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Daston Corporation

File: B-292583; B-292583.2

Date: October 20, 2003

Richard J. Webber, Esq., and Frederick D. McKalip, Esq., Arent Fox Kintner Plotkin & Kahn, for the protester.

Cyrus E. Phillips, IV, Esq., for Catapult Technology, Ltd., an intervenor.

Sherri L. Pappas, Esq., and Terence W. Carlson, Esq., Department of Transportation, for the agency.

Katherine I. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency had a reasonable basis to cancel solicitation for information technology support services for one agency division, where the record shows that the agency no longer had a need for these services due to an agency-wide plan to consolidate information technology services.

DECISION

Daston Corporation protests the cancellation of request for proposals (RFP) No. DTRS56-03-R-0006 by the Department of Transportation (DOT) for information technology (IT) support services. Daston maintains that the decision to cancel the solicitation lacks a reasonable basis. Daston also contends that the agency's modification of an existing contract with Catapult Technology, Ltd., for operational maintenance services, to add this work was outside the scope of that contract.

We deny the protest.

The RFP was issued on May 16, 2003 by the Research and Special Programs Administration (RSPA), 1 of the 11 divisions of DOT. The RSPA operates the Hazardous Materials Information System (HMIS), the primary source of national data for the federal, state, and local government agencies responsible for the safety of hazardous materials transportation. RSPA issued the solicitation to four Small Business Administration (SBA) certified 8(a) businesses with General Services Administration Federal Supply Schedule contracts. The RFP requested proposals for

a base year commencing July 1 with two 1-year options for services that had previously been provided by two different contractors: (1) system development and integration, database design and management, data analysis and entry, and dissemination of the HMIS database, which provides data and database administration, statistical analysis, and standard and specialized reports concerning hazardous materials spills and on regulatory matters; and (2) systems and operational support of the RSPA local area network, wide area network, website development, and web infrastructures, and help desk services.

The agency received three proposals in response to the RFP by the May 27 proposal due date, including Daston's and Catapult's.

Meanwhile, on May 28, DOT's Chief Information Officer (CIO) informed the CIOs of the DOT divisions, including RSPA's CIO, of a proposal that the IT infrastructures of the various divisions be consolidated into the CIO's office by September 30, 2005.

The agency conducted an oral presentation and question and answer sessions with each of the three vendors on May 29, and, on June 3, the agency began evaluating the proposals. Clarifications were requested on June 4 and received on June 5.

Meanwhile, on June 5, the RSPA's CIO received the timeline for DOT's consolidation of IT infrastructures; this timeline indicated that consolidation was to commence by March 2004, with the consolidation of all DOT IT operations to be completed by September 30, 2005. RSPA's CIO held a meeting with other RSPA officials on June 6 to discuss this consolidation plan. It was at this meeting that the contracting officer first learned of DOT's consolidation plan and timetable.

As a result of that meeting, the contracting officer on that same day instructed that the evaluation of the proposals be suspended pending a decision on whether the agency would continue with this procurement or cancel the solicitation. Since the timetable established by the CIO indicated that consolidation was to commence in March 2004, 4 months before the base year term was to expire, the agency determined that it would be necessary to terminate any award it might make under this RFP to meet the agency's requirements. To avoid this scenario, the agency cancelled the solicitation on June 10.

On June 13, the RSPA entered into a "customer agreement" with, and transferred funds to, the Office of the Secretary of Transportation for that office to provide RSPA with these solicited IT services. DOT has various Specialized Technical and User Support (STATUS) multiple award, indefinite-delivery/indefinite-quantity contracts for five specialized technical/technology user support areas: geographic/geospatial information systems, artificial intelligence, wireless technologies/network, e-learning and learning management systems, and operational maintenance support. The record shows that Catapult had received an award under the STATUS solicitation for operational maintenance support, and had received a task order implementing this award. The Office of the Secretary modified this

Catapult task order to add the services included in the canceled RSPA RFP through March 15, 2004.

The protester filed an agency-level protest on June 20, and on July 11, this protest to our Office was filed.

Daston first protests that the agency unreasonably cancelled the solicitation. An agency need only advance a reasonable basis to cancel a request for proposals. See Eastman Kodak Co., B-271009, May 8, 1996, 96-1 CPD ¶ 215 at 2, recon. denied, B-271009.2, Oct. 7, 1996, 96-2 CPD ¶ 136. Cancellation is proper where award under the solicitation would not meet the government's actual needs, and the agency properly may cancel a solicitation no matter when the information precipitating the cancellation first surfaces or should have been known, even if the cancellation occurs after proposals have been submitted. See Encore Mgmt., Inc., B-278903.2, Feb. 12, 1999, at 3.

According to DOT, the 11 DOT operating divisions, including RSPA, operate individual IT infrastructures that are "functionally similar, but non-standard." These various IT infrastructures make overall management of IT, and as well as sharing information between divisions, difficult to accomplish. Also, it is impossible to apply consistent security measures to the various IT infrastructures, which leaves the entire department vulnerable to cyber attack. Additionally, the various IT infrastructures are more expensive to operate, due to redundancies, than one IT infrastructure. Beginning in October 2005, the agency plans on moving into a new headquarters building that will contain all of the operating divisions of DOT, except one, and to facilitate this move the IT services need to be consolidated before the move. Agency Supplemental Report at 2. The agency reports that it cancelled the RSPA RFP in order to support the agency's IT consolidation initiative by immediately transitioning these services to the Office of the Secretary. Since the timetable established by the CIO indicated that consolidation is to commence in March 2004, before the base year contract expires, RSPA asserted that it would be necessary to terminate any contract awarded under this RFP to meet the agency's requirements as established by the timetable.¹

The agency's explanation provides a reasonable basis for the agency's decision to cancel the solicitation. The DOT's CIO has directed that these requirements of RSPA for specific IT support services be transferred to the DOT's CIO departmental infrastructure. We recognize the benefits of consolidating a redundant system and that they may provide a reasonable basis for canceling a solicitation. See LDDS

¹ While Daston expresses disbelief that the consolidation will occur within the timeframe established by the agency, and speculates that Catapult's contract effort will extend beyond March 2004, it has provided no evidence to show that the agency's plans are unrealistic.

WorldCom, B-266257, B-266258, Feb. 8, 1996, 96-1 CPD ¶ 50 at 3. Moreover, since the record indicates that this consolidation will not allow completion of even the base year solicited by this RFP, it is apparent that the agency's needs have changed from those solicited. Cancellation of the solicitation is proper where the agency determines that the solicitation does not accurately describe its needs such that the award will not fulfill the agency's actual requirements. See Nomura Enter. Inc., B-251889.2, May 6, 1993, 93-1 CPD ¶ 490 at 4.

Daston also contends that the solicited work is not within the scope of Catapult's STATUS contract. We disagree. Catapult's STATUS contract for operational maintenance support services—that is, “support for implemented and/or deployed systems and solutions”—has a very broad scope of work that encompasses a “spectrum of specialized technical areas and their operational maintenance support.” Catapult STATUS Contract §§ C.3.8, C.4. Under Catapult's contract, it is to “provide a full range” of services and be capable of providing “evaluation, planning, development, delivery and integration of systems, solutions, technical support, ongoing operations support and maintenance for those core capabilities.” Catapult STATUS Contract. § C.4.1. Among the examples of the work contemplated by this contract include data network designs and installation, database, data mining, data storage and retrieval, systems monitoring and reporting support, and administrative systems support. Id. We think that work encompassed by this RFP, which includes system development and integration, database design and management, data analysis and entry and systems and operation support of the RFP local area network, and wide area network, falls fairly under the broad scope of Catapult's STATUS contract. While Catapult points out that the work covered by the cancelled RFP requires a specialized knowledge of hazardous materials and applicable law and regulations, the STATUS contract recognized that it encompassed a “spectrum of specialized technical areas.” Based on our review, we cannot say that the type of work included in the cancelled RFP is outside the scope of this contract.

The protest is denied.

Anthony H. Gamboa
General Counsel