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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Information Ventures, Inc.

File: B-297815.2

Date: February 13, 2006

Bruce H. Kleinstein for the protester.
Doris Gibson, Department of Health and Human Services, for the agency.
Jennifer D. Westfall-McGrail, Esq., and Christine S. Melody, Esq., Office of the
General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging cancellation of solicitation is denied where the agency withdrew funding for the procurement; lack of funding provides a reasonable basis for cancellation even if the decision to cancel was prompted by a protest concerning the solicitation, unless it is shown that the decision to withdraw funding was the result of bad faith on the agency's part.

DECISION

Information Ventures, Inc. (IVI) protests the cancellation of solicitation No. 2006-Q-08296, issued by the Department of Health and Human Services, Centers for Disease Control and Prevention, for services in support of the Agency for Toxic Substances and Disease Registry. The protester argues that the agency cancelled the solicitation in order to avoid responding to an earlier protest that it filed objecting to the terms of the solicitation.

We deny the protest.

The solicitation, issued on December 22, 2005, called for various services in support of peer review activities by the agency, such as planning services related to peer review and other expert panels, and identifying and establishing contractual relationships with expert consultants. On January 3, 2006, IVI filed a protest arguing that the agency should have issued the solicitation as a total small business set-aside. We subsequently dismissed the protests as academic after the agency advised, by letter dated January 10, that the solicitation had been canceled. IVI then protested the cancellation, arguing that the agency had cancelled the solicitation to avoid

addressing the issues raised in its protest. The agency responded by notifying us that the solicitation had been cancelled due to a lack of funding.

A contracting agency need only establish a reasonable basis to support a decision to cancel a request for quotations. Quality Tech., Inc., B-292883.2, Jan. 21, 2004, 2004 CPD ¶ 29 at 2. An agency's lack of funding for a procurement provides a reasonable basis for cancellation, as agencies may not award contracts that exceed available funds. Quality Support, Inc., B-296716, Sept. 13, 2005, 2005 CPD ¶ 172 at 2. Here, the agency states that funds for the procurement at issue have been withdrawn and the solicitation has been cancelled, and has submitted documents showing that the funds are no longer available. Under these circumstances, we have no basis to object to the cancellation.

IVI contends that the lack of funding is a pretext and in fact the agency cancelled the solicitation in order to avoid addressing the issues in IVI's initial protest. In this regard, we recognize that the notice posted on the FedBizOpps website announcing the cancellation states that the solicitation was cancelled "due to protest." Even assuming, however, that the agency's decision to withdraw funding and cancel the solicitation was triggered by the initial protest, we fail to see any basis to conclude that the cancellation was improper. The management of an agency's funds generally depends on the agency's judgment concerning which projects should receive funding and a contracting agency has the right to cancel a solicitation when, as a result of its allocation determinations, funds are no longer available. First Enters., B-292967, Jan. 7, 2004, 2004 CPD ¶ 11 at 3. In the absence of a showing of bad faith on an agency's part in connection with a funding decision (which is neither alleged nor otherwise evident here), there is no basis to require an agency to go forward with a procurement which it has decided not to fund, even if the decision to cancel was prompted by a protest concerning the solicitation. See James M. Carroll—Recon., B-221502.3, Mar. 24, 1986, 86-1 CPD ¶ 290 at 3. Regarding the protester's argument that funding for the requirement was withdrawn after—and thus could not have resulted in—cancellation of the solicitation, the order in which the two events occurred is irrelevant given that we will not recommend that an agency proceed with an acquisition for which no funding is available. See Greenway Enters., Inc., B-238943.2, May 4, 1990, 90-1 CPD ¶ 454 at 2.

The protest is denied.

Anthony H. Gamboa
General Counsel