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**Comptroller General
of the United States**

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

Decision

Matter of: The Borenstein Group, Inc.

File: B-309751

Date: September 26, 2007

Gal Borenstein for the protester.

Capt. John Pritchard, Department of the Army, for the agency.

Eric M. Ransom and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency had a reasonable basis to cancel request for proposals for management, manpower, and logistics support where the record shows that the agency's requirements could be fulfilled through an existing contract determined to be more advantageous to the government.

DECISION

The Borenstein Group, Inc. protests the cancellation of request for proposals (RFP) No. W91WAW-07-R-0063, issued by the Contracting Center of Excellence (CCE) on behalf of the Office of the Chief of the Army Reserve (OCAR) for management, manpower, and logistics support for the commemoration of the 100th anniversary of the establishment of the U.S. Army Reserve. The Borenstein Group contends that the decision to cancel the solicitation lacked a reasonable basis. The Borenstein Group also contends that the procurement of this requirement through an existing indefinite-delivery/indefinite-quantity (ID/IQ) contract is outside the scope of that contract.

We deny the protest.

BACKGROUND

OCAR created the overall concept of the Army Reserve Commemoration Program (Program) to commemorate the 100th anniversary of the U.S. Army Reserve, and broadly identified a requirement to support the Program in December 2006. On December 21, 2006, OCAR issued Request for Task Order (RFTO) 07-003 under the U.S. Army Communication and Electronics Command's (CECOM) Worldwide Army Advertising (WAA) ID/IQ contract, for Army Reserve public relations support for

fiscal year 2007. Agency Report (AR), Tab 6. This RFTO covered a wide variety of public relations support requirements, mostly unrelated to the Program. However, the RFTO did contain the key deliverable to “[d]evelop programs required to implement strategic campaign plans including the 100 year anniversary of the Army Reserve.” Id. at 1. CECOM ultimately procured the RFTO 07-003 “program development” support requirement on April 13, through issuance of Task Order 14 under the WAA contract. AR, Tab 8.

Meanwhile, between December 2006 and April 2007, OCAR developed a more specific list of deliverables for the Program and, on April 12, requested that CCE procure the necessary contractor support. AR, Tab 4, at 1. OCAR suggests that it submitted this request to CCE, rather than CECOM, because, due to changes in OCAR personnel, it was not aware of the possibility of using the CECOM WAA contract for these specific deliverables at the time.¹ AR at 2-3. Later that month, OCAR and CCE issued a “sources sought” synopsis for the management, manpower, and logistics support requirement, requesting capabilities statements from small businesses. AR, Tab 9.

Sometime in late April or early May, OCAR discovered that all of its Program deliverables might be within the scope of CECOM’s WAA contract, AR, Tab 5, at 1, and, on May 14, requested that CECOM issue an RFTO under the WAA contract for the management, manpower, and logistics support requirement. AR, Tab 10. Shortly thereafter, on June 7, CCE proceeded with the negotiated procurement by issuing the RFP as a small business set-aside. Later in June, however, OCAR began to reconsider continuing the CCE negotiated procurement, in light of the CECOM RFTO. After giving consideration to the ability of the WAA contractor to begin immediately, and the WAA contractor’s past performance, management approach, and experience, OCAR determined that meeting its requirements through the existing WAA contract would be more advantageous to the government, and that the CCE RFP should be cancelled.

On June 26, OCAR requested feedback from CECOM on whether the Program requirements being sought were within the scope of the WAA contract. The CECOM Procuring Contracting Officer responded with a preliminary determination that the deliverables were within scope. AR, Tab 15, at 1. OCAR then contacted the CCE contracting officer, and based on that communication, determined that cancellation of the CCE RFP was reasonable. AR, Tab 16, at 1. On June 26, OCAR requested that CCE cancel the RFP, and CCE did so on July 7. Id. The Borenstein Group filed this protest on July 11.

¹ We are not convinced that this was the case. We note that the same individual was the OCAR point of contact on RFTO 07-003 and the April 12 CCE purchase request, and presumably would have been familiar with the existence and scope of the WAA contract. However, the issue of why OCAR pursued parallel contracting strategies is not material to the decision in this case.

DISCUSSION

The Borenstein Group first protests that the agency's decision to cancel the RFP lacked a reasonable basis. The agency argues that it had a reasonable basis to cancel the RFP because it discovered that its requirements could be met through an existing contract, and ultimately determined that using the existing contract for the requirements was in the best interest of the government.

In a negotiated procurement, an agency has broad authority to decide whether to cancel a solicitation, and to do so need only establish a reasonable basis. VSE Corp., B-290452.2, Apr. 11, 2005, 2005 CPD ¶ 111 at 6. A reasonable basis for the cancellation of an RFP exists when an agency discovers an existing contract for its requirement that would be more advantageous to the government than continuing with the procurement.² See Astronautics Corp. of Am., B-222414.2, B-222415.2, Aug. 5, 1986, 86-2 CPD ¶ 147 at 2-3.

In this case, OCAR discovered that an existing contract encompassed its requirements, determined that the existing contract was more advantageous than continuing with the planned negotiated procurement, and on that basis cancelled the RFP. We conclude that OCAR's decision had a reasonable basis.³ Although it is unfortunate that an apparent lack of coordination at OCAR prevented this RFP from being cancelled earlier, an 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. Daston Corp., B-292583, B-292583.2, Oct. 20, 2003, 2003 CPD ¶ 193 at 3.

The Borenstein Group also argues that any procurement of the Program requirements through the WAA contract is outside the scope of that contract. We disagree.⁴

² We have also found, in the sealed bidding context, that the discovery of an existing contract for the requirement meets the "compelling reason" standard for upholding a post-bid opening cancellation of an invitation for bids. See Colonial Lock Supply Co., B-265645, Sept. 27, 1995, 95-2 CPD ¶ 149.

³ The protester also suggests that OCAR's decision to procure the requirement through the WAA contract undermines small business interests. The fact that the cancelled solicitation was a small business set-aside does not factor into the analysis; the standard is simply whether the decision to cancel the solicitation had a reasonable basis.

⁴ The protester seems to believe that the agency will be acquiring the services under Task Order 14, and argues that the agency's requirements fall outside the scope of that task order. In fact, the agency is not attempting to add the Program requirements to Task Order 14, rather, it plans to award a new task order under the WAA contract, separate and distinct from RFTO 07-003/Task Order 14. AR at 5.

The WAA contract is a strategic public relations support contract that covers a wide variety of advertising, promotional, and publicity programs. WAA Statement of Work (SOW) at 1. The SOW lists 13 performance-based contract objectives, including the development of “activities designed to obtain supportive publicity,” and the “[d]evelopment and execution of event/promotional programs intended to extend the advertising message . . . and create useful opportunities for recruiter interaction” WAA SOW at 1-2. We think that the requirements reflected in the CCE RFP, which included the goals of improved recognition of the Army Reserve, increased appreciation for the Army Reserve, and improved recruiting and retention for the Army Reserve, fall squarely within the scope of the WAA contract.

The protest is denied.

Gary L. Kepplinger
General Counsel