

Ripack



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Willshire Associates, Inc.

File: B-266042

Date: January 18, 1996

DECISION

Willshire Associates, Inc. protests the cancellation of request for proposals (RFP) No. 101-13-95, issued by the Department of Veterans Affairs (VA) for warehouse operations services at the VA forms depot in Alexandria, Virginia. Willshire contends that the cancellation is not supported by an adequate justification.

We dismiss the protest.

The RFP was originally issued on February 6, 1995, and called for offers to perform warehouse operations for a 6-month base period and four 1-year options. On March 17, the date set for the receipt of initial proposals, the VA received 15 timely offers and evaluated them. On the basis of that evaluation, the VA determined that the solicitation's evaluation criteria did not adequately reflect the agency's actual needs. The VA therefore issued two amendments to change the basis for proposal evaluation and provide offerors an opportunity to submit revised proposals. The revisions were originally due on June 5, but the deadline was extended to August 1, since the contracting officer had been advised that the forms depot might be moved to Hines, Illinois as part of a streamlining effort.

On August 1, the agency received the revised proposals. On August 29, during the evaluation of the revised offers but before award had been made, the contracting officer was advised in writing by the VA's Deputy Assistant Secretary for Acquisition and Material Management that the forms depot operation would in fact be moved to Illinois. In light of this information, the contracting officer canceled the RFP because there would no longer be a requirement for the services for the period called for in the solicitation (a 6-month base period with 4 option years).

Willshire contends that the cancellation is improper because the VA has not specified a date for its move of the forms depot, and because the contracting officer did not specifically find, in accordance with Federal Acquisition Regulation (FAR) § 15.606(b)(4), that there is such a substantial change in the agency's requirements that cancellation and resolicitation are warranted.

In a negotiated procurement, agencies enjoy broad discretion regarding whether or not they should cancel a solicitation; the agency need have only a reasonable basis for its cancellation decision. The Potomack Partnership, B-252860, Aug. 3, 1993, 93-2 CPD ¶ 75.

The decision to move the forms depot to Illinois clearly provided a reasonable basis to cancel, since the function not only will be performed in an entirely new location, with its attendant particular requirements, but also will be performed by government employees, not a contractor. In addition, although the contracting officer did not know the precise date for the move at the time of the cancellation, the agency advised our Office during the pendency of the protest that the move commenced in December 1995 and has continued through January 1996.¹ Further, the contracting officer's failure to recite the specific language found in FAR § 15.606(b)(4) in connection with his decision to cancel the RFP does not invalidate the cancellation, given our conclusion that the depot move does in fact constitute a substantial change in the requirement. Finally, the fact that Willshire may have incurred costs in connection with submitting its proposal does not affect the propriety of the cancellation; agencies properly may cancel a solicitation even after firms have incurred such costs. The Potomack Partnership, *supra*.

Willshire also contends that the agency has violated FAR part 17, which prohibits agencies from entering into contracts longer than 5 years without appropriate statutory authorization. According to Willshire, the current incumbent for these services has been performing for more than 5 years, in violation of the FAR. This argument is without merit. The FAR prohibits the award of a single contract that exceeds 5 years in duration in the absence of statutory authority for making such an award. FAR § 17.102. The incumbent here has not been awarded a single 5-year contract but, rather, has received numerous contracts that collectively exceeded 5 years in duration. This is not prohibited.

The protest is dismissed.

Comptroller General
of the United States

¹Willshire contends that the agency should not have issued the RFP at all, since the decision to move the forms depot to Illinois had been known for more than a year. The record shows, however, that the solicitation had already been issued (in February 1995) when the contracting officer first received information in May 1995 relating to a possible move, and that the actual decision to move the depot was not made until August 24, just a few days prior to the cancellation.