



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Chant Engineering Co., Inc.

File: B-270149.2

Date: February 14, 1996

Philip Chant for the protester.

Maria G. Bellizzi, Esq., Department of the Navy, for the agency.

Susan K. McAuliffe, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Contracting agency's cancellation of request for proposals is unobjectionable where agency reasonably determined that the solicitation overstated its minimum requirements and that enhanced competition would result from relaxation of requirements.

DECISION

Chant Engineering Co., Inc. protests the cancellation of request for proposals (RFP) No. N00600-95-R-2101, issued by the Department of the Navy for a proof test machine, grips, liners, and adapters.

We deny the protest.

The cancellation followed a protest to our Office by Chant of the award of a contract under the RFP to Roberts Testing Equipment, Inc. According to the agency, it terminated Roberts's contract for convenience and canceled the solicitation because its review of the procurement record and the solicitation's specifications showed that the original RFP materially overstated the agency's minimum needs and that cancellation was in the best interests of the government. We closed our file on the protest of the award because the cancellation rendered the protest academic. The Navy reports that the RFP specifications currently are being reviewed for substantial revision "to draft a more generic, less restrictive, and precise specification that states the government minimum requirement" which, the agency contends, will "result in increased competition with potential cost savings for the [g]overnment"; the agency has identified at least two additional competitors that could meet the relaxed specifications. The agency further states that funding constraints may preclude resolicitation in any event.

Chant challenges the Navy's decision to cancel the RFP. Chant argues that the two proposals received (Chant's and Roberts's) should represent sufficient competition

since the agency found unobjectionable the receipt of two proposals under prior solicitations for similar equipment. Chant contends that the Navy only canceled the RFP after Chant protested the award of the contract to Roberts; Chant believes the cancellation represents an effort by the agency to prevent a complete review of the propriety of the agency's failure to award the contract to Chant initially. The protester seeks award under the original RFP on the basis of having submitted the only acceptable proposal.

In a negotiated procurement, the contracting officer has broad discretion in deciding whether to cancel a solicitation; he need only have a reasonable basis as opposed to the cogent and compelling reason required for cancellation where sealed bids have been opened. Xactex Corp., B-247139, May 5, 1992, 92-1 CPD ¶ 423. A reasonable basis to cancel exists when a new solicitation presents the potential for increased competition or cost savings. Lucas Place, Ltd., B-235423, Aug. 30, 1989, 89-2 CPD ¶ 193. Therefore, an agency may cancel a solicitation if it materially overstates the agency's requirements and the agency can obtain enhanced competition by relaxing the requirements. Brisk Waterproofing Co., Inc., B-256138.3, June 30, 1994, 94-1 CPD ¶ 394.

We find that the agency's decision to cancel the solicitation to revise and relax its specifications to better reflect the agency's actual requirements and seek enhanced competition was reasonable.

As the Navy reports, irrespective of the propriety of the award to Roberts, further review of the RFP specifications and the procurement record showed the agency that the original RFP overstated its minimum needs and may have restricted competition. The agency's protest report delineates four areas of the RFP's technical specifications that will be revised if funding permits resolicitation.¹ Each of these changes affects material specifications that are to be relaxed or more accurately defined to better reflect the agency's minimum needs—for example, the specifications for the machine's hydraulic system, cylinder assembly and cylinder size and capacity are being relaxed. The Navy further reports that the balance of the RFP's specifications are being reviewed in their entirety by agency technical personnel for revision and that at least two additional potential competitors have been identified that could meet the relaxed requirements.

¹In response to Chant's protest of the cancellation, the agency submitted information to our Office regarding the specific revisions to the RFP's specifications that have been proposed to date—the agency's review of the balance of the specifications is on-going. Chant has not been provided this information due to the agency's position that such information, if released to the protester prior to the issuance of a new solicitation, would give an unfair competitive advantage to Chant upon resolicitation.

The crux of Chant's protest is that the Navy acted in bad faith in canceling the RFP after Chant's protest disclosed that the contract should have been awarded to Chant and not to Roberts. That speculation, however, does not provide a sufficient basis to find improper agency conduct. See HBD Indus., Inc., B-242010.2, Apr. 23, 1991, 91-1 CPD ¶ 400. As indicated above, the record shows that the specifications overstated the agency's minimum needs regarding material RFP requirements, and that enhanced competition is anticipated upon resolicitation on the basis of more accurate and relaxed specifications. In such circumstances, cancellation of the RFP was reasonable.

The protest is denied.

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