

**DECISION**



14860 *Gupik*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

*[Protest of Solicitation Cancellation After Bid Opening] PL II*

FILE: B-200043

DATE: September 10, 1980

MATTER OF: Joy Manufacturing Company *CDG01385*

**DIGEST:**

Solicitation properly may be canceled after bid opening where contracting activity determines that it could meet its minimum needs using less restrictive specifications.

Joy Manufacturing Company (Joy) protests the cancellation after bid opening of solicitation DLA-700-80-B-1453 issued by the Defense Construction Supply Center for air-powered winches. According to Joy, the canceled invitation for bids (IFB) required a design using a "positive locking safety dog," which was not offered by the low bidder. Instead, Joy states, the low bidder offered a winch incorporating an automatic brake. Joy believes it should have received the award based on its second low and responsive bid and complains that the agency intends to resolicit its requirement using revised specifications which would permit use of a winch without the "safety dog" feature. *AGC02891*

The protest is summarily denied.

Because cancellation of an IFB after bids are exposed has a potential adverse impact on the competitive bidding system, cancellation must be warranted by some cogent and compelling reason. See GAF Corporation; Minnesota Mining and Manufacturing Company, 53 Comp. Gen. 586 (1974), 74-1 CPD 68. This test is met here if, as Joy alleges: (1) the IFB included restrictions which the contracting agency since has concluded are unnecessary, and (2) the effect of those unnecessary restrictions was to limit the field of potential competition. See Automated Datatron, Inc.; Exspeedite Blueprint Service, Inc., 55 Comp. Gen. 464 (1975), 75-2 CPD 315; Haughton Elevator Division, Reliance Electric Company, 55 Comp. Gen. 1051 (1976), 76-1 CPD 294.

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We note, in this regard, that the facts of Joy's present complaint are quite different from the facts presented in an earlier decision sustaining that firm's protest against the cancellation of another IFB. Joy Manufacturing Company, 54 Comp. Gen. 237 (1974), 74-2 CPD 183. There, also, Joy submitted the second low bid. In that case, we held that the acceptability of Joy's bid should have been considered, because the reasons for the low bidder's nonresponsiveness and for cancellation were unrelated to each other. [Apparently the alternate approach offered by the low bidder in the present case would meet the Government's actual needs.]

Joy seems to believe that the "safety dog" feature was included for sound engineering reasons. However, it is not for our Office to determine that a requirement permitting a less restrictive automatic brake system to be offered as an alternative approach would be inadequate. [See Miltope Corporation -- Reconsideration, B-188342, June 9, 1977, 77-1 CPD 417, second reconsideration, July 1, 1977, 77-2 CPD 3.]

*Milton J. Jordan*

For the Comptroller General  
of the United States