

**DECISION**

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

**FILE:** B-209235

**DATE:** May 9, 1983

**MATTER OF:** Com-Tron, Inc.

**DIGEST:**

1. Where protester, the second low bidder, protests not only the cancellation of an invitation for bids, but also alleges that the low bidder was nonresponsive, the protester is an interested party because it would be eligible for award if its protest is sustained.
2. Cancellation of solicitation was reasonable where solicitation did not clearly indicate that alternate bids were requested.

Com-Tron, Inc., protests the cancellation of the Department of the Army's invitation for bids No. DAKF24-82-B-0143, for the installation of a fiber optics transmission system to upgrade the telephone network at Fort Polk, Louisiana. We deny the protest.

As originally issued, the IFB required the installation of a repeater, or booster, midway between the ends of a fiber optics cable in order to compensate for any loss of power in the signal as it moved through the cable. After issuance of the IFB, Com-Tron informed the Army of advances in fiber optics cable technology which had made use of a repeater unnecessary. Because of this, the Army issued amendment No. 0001 to the IFB to request alternate bids. Change number 2 of that amendment instructed bidders that:

"Page 3.3, Section III paragraph 3.10 identifies the incorporation of a mid-span repeater. Bidders should include this repeater in their proposal, however, alternatives and cost savings while maintaining the integrity of the system, should be noted."

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Webb Electric Company of Florida, Inc., the low bidder, advised the Army by telegram, "PLEASE MODIFY OUR SUBMITTED BID AS FOLLOWS: \* \* \* PURSUANT TO AMENDMENT NO. 0001, WHICH IS ACKNOWLEDGED, ITEM 2 FOR DELETION OF MID SPAN REPEATER, DEDUCT \$22,000.00 FROM OUR MODIFIED BID PRICE." Com-Tron, the second low bidder, acknowledged the amendment and informed the Army that "Com-Tron, by eliminating the repeater \* \* \* can offer the Government a reduction in bid price of \$25,869." Meador Contracting Company, Inc., the third low bidder, reduced its bid price by \$23,000 without discussing deletion of the repeater or alternatives to the repeater. The remaining three bidders acknowledged the amendment but did not submit an alternate bid. The contracting officer then informed the bidders that the IFB had been canceled due to an ambiguity in the solicitation. The requirement was recently resolicited under two-step formal advertising procedures.

The Army initially contends that Com-Tron is not an interested party eligible to protest the cancellation because it was the second low bidder and ineligible for award if its protest was sustained and the solicitation reinstated. Under our Bid Protest Procedures, a party must be interested before we will consider its protest on the merits. 4 C.F.R. § 21.1(a) (1983). As a general rule, we will not consider a party's interest to be sufficient where that party would not be eligible for award if the issues raised were resolved in its favor. Radix II, Incorporated, B-208557.2, September 30, 1982, 82-2 CPD 302; Interscience Systems, Inc.; Amperif Corporation, B-201943; B-202021, August 31, 1982, 82-2 CPD 187.

However, we consider Com-Tron to be an interested party. In addition to alleging that the cancellation was improper, Com-Tron contends that it, rather than Webb, submitted the low responsive bid. Com-Tron argues that the Webb bid, deleting the repeater, was nonresponsive to the amendment requirement that bidders include the repeater. If Com-Tron's protest was sustained, with the solicitation reinstated and Webb's bid found nonresponsive, then Com-Tron, the second low bidder, would become eligible for award. Accordingly, we will consider the merits of Com-Tron's protest. See Teledyne Republic, B-204022, December 31, 1981, 81-2 CPD 520.

The Army argues that the contracting officer properly canceled the IFB as ambiguous because the amendment did not clearly require alternate bids and state the format for submitting such bids, resulting in the submission of divergent bids on other than a common basis. Com-Tron denies that any ambiguity existed.

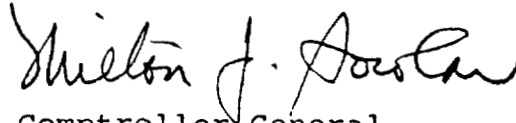
An ambiguity in the solicitation which may mislead the bidders denies the Government the benefit of full and free competition and, thus, provides a cogent and compelling reason to cancel an advertised solicitation after bid opening. Ridg-U-Rak, Inc., B-207124, August 25, 1982, 82-2 CPD 178; Defense Acquisition Regulation (DAR) § 2-404.1 (Defense Acquisition Circular No. 76-17, September 1, 1978). The decision to cancel an invitation is an administrative matter and we will not challenge the judgment of the contracting officer unless the protester can demonstrate that the decision was clearly arbitrary, capricious, or not supported by substantial evidence. Central Mechanical, Inc., B-206030, February 4, 1982, 82-1 CPD 91.

In our view, the contracting officer reasonably concluded that the amendment created an ambiguity justifying cancellation by failing to provide a clear requirement for the submission of alternate bids. While a bidder might reasonably understand the use of the word "alternatives" as calling for submission of an alternate bid, the language of the amendment also indicates the converse. The amendment states only that "alternatives and cost savings \* \* \* should be noted," with no guidance as to the form in which the alternatives should be noted, or exactly what "noted" means. Of particular significance, DAR § 1-1207 (1976 ed.) requires a precise solicitation description of acceptable alternate items to assure equality of competition for such items. Furthermore, we agree with the agency that the variation in bidder responses to the amendment suggests that not all the bidders knew what the solicitation meant and indicates that at least some of the bidders were prejudiced by the ambiguity. Cf. Moore Service, Inc., et al. B-204704.2, et al., June 4, 1982, 82-1 CPD 532.

The Army also contends that the solicitation was defective from a minimum needs standpoint for failure to specify the type of cable which could be used without a repeater and because the contracting officer could justify

resolicitation for a more advanced, less costly technology. Given our conclusion that the contracting officer reasonably canceled the solicitation due to the ambiguity, we need not address these additional reasons for cancellation. Neither do we need to address Com-Tron's allegation that Webb submitted a nonresponsive bid.

The protest is denied.

A handwritten signature in cursive script, reading "Milton J. Auster".

Acting Comptroller General  
of the United States