

DECISION



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

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FILE: B-217323

DATE: February 7, 1985

MATTER OF: B.R.S. Contracting Co., Inc.

DIGEST:

Protest alleging that apparent low bidders are nonresponsive is dismissed as moot since agency canceled solicitation.

B.R.S. Contracting Co., Inc. protests the award to any other bidder of a contract under Invitation for Bids (IFB) No. F40650-84-B-0153 issued by the Arnold Engineering and Development Center, Arnold Air Force Station, Tennessee for exterior caulk and paint for military family housing. B.R.S. asserts that both the low and second low bidders failed to comply with the requirements of the IFB, and that it is thus the low responsive bidder. The Air Force concludes, however, that since the solicitation was canceled on December 7, 1984, the protest is moot. We agree.

The Air Force opened bids on November 19. B.R.S. filed a protest with this Office on December 10, alleging that the low bidder, J. and Mor Company, Inc., failed to provide a bid bond as required by the IFB, and that the second low bidder, B & C Co., Inc., failed to bid on one line item and neglected to sign its bid. The Air Force points out that B & C Co. was the third, rather than the second, low bidder, but notes that the actual second low bidder like the low bidder, failed to submit a bid bond. The Air Force determined that the three apparent low bids were nonresponsive and that all other bids exceeded both the government estimate and the funding available for the project, and canceled the solicitation on December 7. The Air Force has advised us that the protester was notified of the cancellation by letter dated December 7.

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We agree with the Air Force that cancellation of the solicitation rendered B.R.S.' protest moot. Moreover, we note that if B.R.S. objected to the cancellation it was required to protest to our Office within 10 working days of the date upon which it learned of the Air Force action. 4 C.F.R. § 21.2(b)(2) (1984). The time for filing such a protest has passed.

The protest is dismissed.

Ronald Berger
for the Comptroller General
of the United States