

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

FILE: B-221824

DATE: April 1, 1986

MATTER OF: International Trade Overseas, Inc.**DIGEST:**

1. Where agency determines that solicitation specifications overstate its minimum needs and that award based on revised specifications will result in lower overall costs to the government, cancellation of solicitation is proper.
2. An issuing agency may cancel a solicitation after bid opening regardless of when the information justifying cancellation first surfaces.

International Trade Overseas, Inc. (International), protests the cancellation after bid opening of invitation for bids (IFB) No. QUITO-85-032 issued by the Agency for International Development (AID) for steel pipes for use in Ecuador.

We deny the protest.

International initially protested that AID improperly accepted a late bid from LaBarge Pipe & Steel Corp., the apparent low bidder under the solicitation. Subsequent to the filing of International's protest, however, AID canceled the solicitation.

AID determined that the IFB should be canceled based on its finding that smaller, lighter-weight pipes than those originally solicited would meet the agency's needs and would result in lower overall costs, including lower transportation costs. In this respect, under the terms of the solicitation, the successful bidder is eligible for reimbursement from AID of transportation costs. AID intends to revise the solicitation specifications to require 36-inch diameter pipes instead of the 42-inch diameter pipes.

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originally solicited. The new solicitation will also require that pipe wall thickness be reduced from 0.3132 inches to 0.25 inches. AID estimates that using these new pipe specifications will save the government about 30 percent in transportation costs for the 2,250 meters of steel pipes being procured.

International contends that the revised specifications will only save about 14 percent in transportation costs--about one half the amount AID claims will be saved. International also asserts that the specifications "had been subject to numerous reviews" prior to solicitation issuance, and that AID improperly canceled the solicitation only to circumvent International's earlier protest against acceptance of a late bid.

Our decisions and the Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.404-1 (1984), recognize that a solicitation may be canceled after bid opening only when a compelling reason for the cancellation exists. See Uffner Textile Corp., B-204358, Feb. 8, 1982, 82-1 C.P.D. ¶ 106. The determination of whether a sufficiently compelling reason exists is primarily within the discretion of the administrative agency and will not be disturbed absent proof that the decision was clearly arbitrary, capricious or not supported by substantial evidence. Chrysler Corp., B-206943, Sept. 24, 1982, 82-2 C.P.D. ¶ 271. In determining whether such a reason exists, one of the factors that must be considered is whether the best interest of the government would be served by making an award under the solicitation. When it is determined that an IFB overstates the minimum needs of the government, or the agency decides after bid opening that its needs may be satisfied by a less expensive alternative, the best interest of the government requires cancellation. Id.; Uffner Textile Corp., B-204358, supra.

Here, AID found that smaller, lighter-weight pipes would satisfy the agency's requirements and would result in lower costs. The protester does not dispute these findings--it merely contends that the cost savings would be less than AID estimates.

In our view, however, even a 14-percent savings to AID in the cost of transporting the 2,250 meters of steel pipes from the United States to Ecuador would be adequate justification for cancellation. In this regard, the

FAR provision at 48 C.F.R. § 52.214-10 (1984), incorporated by reference into the solicitation, warned bidders the government reserves the right to reject all bids when it is in the best interest of the government to do so. In these circumstances, we cannot conclude the cancellation was improper. Uffner Textile Corp., B-204358, supra.

Regarding the argument that the solicitation was canceled to circumvent International's protest, the record shows that subsequent to bid opening, United States Bureau of Reclamation pipeline specialists and AID technical experts in Ecuador further reviewed the solicitation specifications and recommended that they be revised. We have held that an agency may properly determine to cancel a solicitation after bid opening no matter when the information precipitating cancellation first surfaces. Chrysler Corp., B-206943, supra. Therefore, AID could properly determine during its post-bid-opening review of the solicitation specifications that cancellation based on the above grounds was warranted even if the agency had initially determined that the specifications were adequate. Carrier Corporation, B-214331, Aug. 20, 1984, 84-2 C.P.D. ¶ 197.

The protest against the cancellation of the solicitation is denied. Accordingly, International's original protest that AID improperly accepted a late bid is academic and need not be considered. See Harris Corp., B-218930, July 2, 1985, 85-2 C.P.D. ¶ 17.

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