



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: R.H.G. Systems, Inc.
File: B-224176
Date: October 2, 1986

DIGEST

Where the General Accounting Office has made no determination that the agency's procurement actions were in violation of applicable statute or regulation, the protester is simply not entitled to the recovery of its protest and bid preparation costs.

DECISION

R.H.G. Systems, Inc. (RHG) has protested the cancellation of invitation for bids (IFB) No. DACA63-85-B-0245, issued by the Army Corps of Engineers (Corps). The procurement was for the renovation of certain buildings at Fort Polk, Louisiana. RHG complains that the cancellation improperly deprived the firm of an award to which it was otherwise entitled as the successful bidder under the IFB. (RHG was the sole bidder.) Accordingly, the firm also claims the recovery of its costs of filing and pursuing the protest, including attorney's fees, and its bid preparation costs. This action follows an earlier agency-level protest filed by RHG against the cancellation.

We dismiss the protest and deny the attendant claim for costs.


The Corps originally cancelled the IFB after bid opening because it had determined that the specifications were inadequate to meet its needs. In addition, the funds available for the project lapsed at the time of cancellation. This Office has held that the use of specifications that do not adequately describe the government's actual needs generally provides a compelling reason to cancel an IFB after the exposure of bids. American Marine Decking Systems, Inc., B-216580, Mar. 1, 1985, 85-1 CPD ¶ 256; Tecom, Inc., B-213815.2, Aug. 6, 1984, 84-2 CPD ¶ 152. We have further

held that the lack of sufficient funds can justify cancellation of an IFB. Mid Atlantic Communications, B-221277, Mar. 27, 1986, 86-1 CPD ¶ 294; Military Base Management, Inc., B-216309, Dec. 4, 1984, 84-2 CPD ¶ 619.

In any event, the Corps has subsequently determined that the work contemplated under the IFB is no longer required because the troops housed in the buildings in question are to be relocated shortly to another facility. It is our consistent view that cancellation of a solicitation is proper where the procuring agency no longer needs the supplies or services. Auchter Industries, B-220929.2, et al., Jan. 24, 1986, 86-1 CPD ¶ 86; Aviation Enterprises, Inc., B-215662.3, Oct. 29, 1984, 84-2 CPD ¶ 472; see also the Federal Acquisition Regulation, 48 C.F.R. § 14.404-1(c)(3) (1985). Thus, to the extent RHG contends that the original grounds for cancellation were legally insufficient, this subsequently enunciated basis nonetheless justifies the cancellation as if it had been advanced originally. See John C. Kohler Co., B-218133, Apr. 22, 1985, 85-1 CPD ¶ 460. We note that RHG has not challenged the Corps' determination that the contemplated work is no longer required. In fact, RHG specifically states that the issue of the propriety of the cancellation "has been rendered moot" by this determination. Therefore, we conclude that RHG's submission to this Office has failed to state a valid basis for protest. Accordingly, the protest is dismissed. 4 C.F.R. § 21.3(f) (1986).

With regard to RHG's attendant claim for its protest and bid preparation costs, we point out that a protester's entitlement to such costs is predicated upon a determination by this Office that the agency's procurement actions violated applicable statute or regulation. 4 C.F.R. §§ 21.6(d) and (e). Since we have made no determination that the cancellation was other than proper, no basis exists upon which we may declare RHG entitled to the recovery of its claimed costs. See Pitney Bowes, Inc., 64 Comp. Gen. 623 (1985), 85-1 CPD ¶ 696; Monarch Painting Corp., B-220666.3, Apr. 23, 1986, 86-1 CPD ¶ 396.

The protest is dismissed and the claim is denied.

for 
Harry R. Van Cleve
General Counsel