



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Sunbelt Industries, Inc.

**File:** B-245244

**Date:** November 1, 1991

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### DIGEST

Protest against agency's cancellation of solicitation line items for abrasive grain in order to create new purchase descriptions for newly manufactured and reprocessed grain is dismissed because protester's bid under the solicitation was properly rejected as nonresponsive and new solicitation with altered purchase description has not yet been issued.

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### DECISION

Sunbelt Industries, Inc. protests the cancellation of invitation for bids (IFB) No. 7FX1-K5-90-5329-S issued by the General Services Administration for abrasive blasting material.

We dismiss the protest.

The solicitation was issued on September 4, 1990, for 12 different national stock numbers (NSN), each representing a different type of abrasive grain. The protest concerns only three of the NSNs solicited, Nos. 5350-00-184-5824, 5350-00-184-5825 and 5350-00-230-3251 for different sizes of aluminum oxide grain in conformance with Interim Commercial Item Description (CID) A-A-001045A. As amended, the IFB permitted firms to supply either newly manufactured or used (reprocessed) grain under the three NSNs. At the October 19 bid opening, Sunbelt was the fourth low bidder under NSN 5824 and the fifth low bidder under NSN 3251; it did not bid on NSN 5825. As the result of the rejection of the lower bids for various reasons, Sunbelt became the low bidder under both NSN 5824 and NSN 3251. While the procurement was ongoing, GSA was also conducting a survey of its using agencies and it found that those agencies desired that newly manufactured and reprocessed abrasive grain have separate NSNs because, according to GSA, reprocessed grain may contain impurities and hazardous contaminants that could damage property or injure personnel and therefore, it must be identified and used under limited circumstances.

In response to this concern, GSA decided that it should change the three NSNs to permit the submission of only newly manufactured abrasive grain and to create new NSNs for reprocedured grain for activities that can use it. Therefore, the agency canceled the three NSNs in order to change the method of expressing its requirements for aluminum oxide grain. The requirements for the grain will be solicited at a later date.

Meanwhile, during the evaluation of Sunbelt's bid under the IFB, GSA discovered that Sunbelt failed to submit a signed Certificate of Procurement Integrity and it thus rejected the bid as nonresponsive.<sup>1</sup>

Sunbelt argues that the cancellation was improper and that as the low bidder, it should have received the award for two of the NSNs. The protester contends that GSA has arbitrarily excluded reprocessed abrasive grain based upon speculation that it may contain hazardous impurities without citing an example of any specific problem which has resulted from the use of reprocessed material. Sunbelt states that this violates Federal Acquisition Regulation (FAR) § 23.401(b), which according to the protester, requires that agencies not draft specifications which exclude recovered materials.

Since Sunbelt's bid under the canceled solicitation was properly rejected because it failed to include a signed Certificate of Procurement Integrity as required by the IFB, see Sunbelt Indus., Inc., supra, the protester was not in line for award under the solicitation and it thus lacks the direct economic interest necessary to be an interested party eligible to protest the cancellation. See Bid Protest Regulations §§ 21.0(a) and 21.1(a) (1991); Trimarchi, Inc., B-231547.2, Oct. 14, 1988, 88-2 CPD ¶ 352. We therefore dismiss this portion of the protest.

As far as the second portion of the protest which involves the propriety of the agency's exclusion of reprocessed grain is concerned since no solicitation has yet been issued for the canceled items it is our view that the protest is premature and need not be considered at this time.<sup>2</sup>

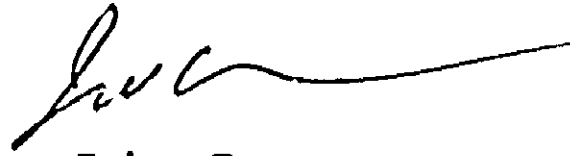
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<sup>1</sup>Sunbelt protested the rejection of its bid to our Office. We dismissed the protest because in our view the agency's action was correct. See Sunbelt Indus., Inc., B-245244.2, Sept. 24, 1991, 91-2 CPD ¶ \_\_\_\_.

<sup>2</sup>Moreover, we have held that FAR § 23.401(b) does not prohibit agencies from excluding recycled or recovered materials in solicitations. Sunbelt Indus., Inc.--Recon., B-245780.2, Oct. 29, 1991, 91-2 CPD ¶ \_\_\_\_.

See Brazil Van & Storage Corp., B-241327.2, Oct. 26, 1990,  
90-2 CPD ¶ 342.

The protest is therefore dismissed.



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