



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Brackett Aircraft Radio Company
File: B-244831.2
Date: December 27, 1991

Alberto Gacharna, Jr. for the protester,
Catherine M. Evans, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that agency's cancellation of solicitation before bid opening due to changed requirements was improper is dismissed for failure to state a legally sufficient basis where protest does not establish likelihood that agency's decision to cancel amounted to abuse of discretion.

DECISION

Brackett Aircraft Radio Company protests the cancellation of invitation for bids (IFB) No. DAAH01-91-B-A055, issued by the Department of the Army for Patriot missile cable assemblies.

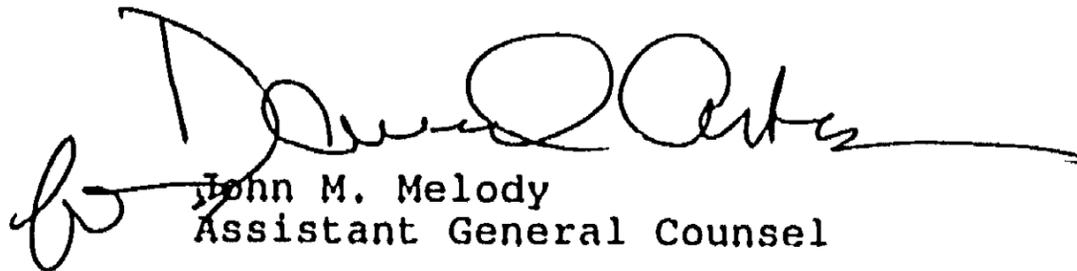
We dismiss the protest.

Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds of protest, 4 C.F.R. § 21.1(c)(4) (1991), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). This requirement contemplates that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood of the protester's claim of improper agency action. Basic Supply Co., Inc., B-241683, Oct. 31, 1990, 90-2 CPD ¶ 362.

Brackett's protest includes a copy of an amendment to the IFB and a letter from the agency stating that the solicitation has been canceled due to a reduction in the requirement. Brackett essentially contends that a reduction in the agency's requirements is not a proper basis for cancellation of an IFB after bid opening because it is not among those listed in Federal Acquisition Regulation § 14.404. However, in this case, the agency canceled the IFB before bids were opened. Cancellation of an IFB before bid opening is a matter primarily within the discretion of

the contracting agency; we will not disturb the agency's determination absent clear proof of an abuse of that discretion. KIME Plus, Inc., B-231906, Sept. 13, 1988, 88-2 CPD ¶ 237; The Rhodes Co., Inc., B-213068, Apr. 23, 1984, 84-1 CPD ¶ 455. A change in the government's needs generally constitutes a proper basis for cancellation of an IFB before bid opening. See id. As Brackett does not argue that the agency's requirements have not in fact changed, we have no basis to conclude that the agency's decision to cancel the IFB before bid opening based on its reduced requirements amounts to an abuse of discretion. The protest therefore fails to set forth a legally sufficient basis as required by our Regulations. See Techno Eng'g & Constr., Ltd., B-243814; B-243815, May 13, 1991, 91-1 CPD ¶ 463.

The protest is dismissed.



John M. Melody
Assistant General Counsel