



Comptroller General
of the United States

241:110

Washington, D.C. 20548

Decision

Matter of: American Technology Corporation

File No.: B-258704

Date: October 14, 1994

DECISION

American Technology Corporation (ATC) protests the Air Force's cancellation of request for proposals (RFP) No. F41608-92-R-20936, issued by the agency under the Small Business Administration's (SBA) section 8(a) program¹ for M-10 missile adaptors. The Air Force terminated the original awardee's contract after discovering that the contractor was unable to proceed with contract performance. The then agency canceled the procurement and proceeded with a resolicitation because of significant changes in the agency's technical requirements.

We dismiss the protest.

We have already considered and resolved this same issue in Consolidated Indus., Inc., B-256278; B-256278.2, June 3, 1994, 94-1 CPD ¶ 343. In that case, another offeror--who had graduated from the 8(a) program after contract award--maintained that the cancellation and resolicitation for this requirement was improper.

Cancellation of an RFP after offerors' prices have been revealed is proper where the record contains plausible evidence or a reasonable possibility that a decision not to cancel would be prejudicial to the government or the integrity of the procurement system. See also Budney Indus., B-252361, June 10, 1993, 93-1 CPD ¶ 450. In particular, cancellation is appropriate where the needs of the agency have changed in some material respect. Id.

¹Under the section 8(a) program, SBA enters into contracts with government agencies and arranges for performance through subcontracts with socially and economically disadvantaged business concerns. See 15 U.S.C. § 637(a) (1988 and Supp. IV 1992). Under certain circumstances, acquisitions offered to SBA under the 8(a) program must be awarded on the basis of competition limited to eligible 8(a) firms. See Federal Acquisition Regulation § 19.805.

As explained in Consolidated Indus., Inc., supra, in this case we found that material changes in the missile adapter's technical specifications justified the cancellation. In the year since the original RFP was issued, the Air Force made substantial changes in the materials used to make the missile adapters. Because of the required technical changes, the record showed that any product provided under the original RFP's specifications would no longer serve the agency's minimum needs. Further, the record indicated that the technical changes were expected to significantly impact offerors' prices. For example, the new RFP requires the use of a cleaning compound that is non-ozone depleting; this substance is approximately twice the price of the cleaning compound specified in the original RFP.

Because missile adapters procured under the original RFP would not serve the Air Force's minimum needs, we concluded that the cancellation and subsequent resolicitation were proper. We noted that because the cancellation was unobjectionable, the agency had not created an impermissible auction; given technical changes as well as the expected impact of the revised solicitation specifications on offeror's prices, we concluded that all offerors would be placed in the same competitive posture they enjoyed under the original solicitation. See Consolidated Indus., Inc., supra; see also Anderson Hickey Co., B-250045.3, July 13, 1993, 93-1 CPD ¶ 15.

Since ATC's protest is based on the exact facts and circumstances of the Consolidated Indus., Inc. decision, we dismiss the protest.

The protest is dismissed.


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