



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Robert Hall Associates, Inc.

File: B-261849

Date: October 25, 1995

R. M. Hall, III, for the protester.

Nicholas P. Retson, Esq., and Bryant S. Banes, Esq., Department of the Army, for the agency.

John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly canceled solicitation after bid opening where funds were not available to make an award.

DECISION

Robert Hall Associates, Inc. (RHA) protests the Department of the Army's cancellation of invitation for bids (IFB) No. DABT10-94-B-0051 (-0051), issued for the replacement of metal gas lines at Fort Benning, Georgia, and issuance of IFB No. DABT10-95-B-0030 (-0030) for substantially the same work.

We deny the protest.

Four bids were received in response to IFB-0051 by the bid opening date of September 15, 1994, with RHA submitting the low bid of \$469,715. On January 24, 1995, the solicitation was canceled because of lack of funding. On May 23, 1995, the agency issued IFB-0030, for substantially the same work as contained in IFB-0051, with the exception that IFB-0030 requires that the contractor perform certain landscaping services required as a result of the gas line replacement.

RHA points out in its protest that it had extended the acceptance period for its bid submitted in response to IFB-0051 until September 30, 1995, and argues that because funding became available for the work contemplated prior to September 30, the cancellation of the solicitation for lack of funds was unreasonable, and that it should receive award of a contract under IFB-0051, and the awarded contract should be modified by change order to include the required landscaping services.

Cancellation after bids have been opened and prices have been exposed is only permitted where a compelling reason exists to cancel. P&C Constr., B-251793, Apr. 30, 1993, 93-1 CPD ¶ 361; Federal Acquisition Regulation (FAR) § 14.404-1(a)(1). The nonavailability of funds for contract obligation is a sufficient reason to

cancel a solicitation. NDT-1, Inc.--Recon., B-220570.2, Apr. 15, 1986, 86-1 CPD ¶ 364. Accordingly, the agency's determination to cancel IFB-0051, upon being informed that funds were not available for award, was appropriate, and the propriety of the determination is unaffected by the protester's unilateral extension of its bid acceptance period.

Further, solicitations may be canceled after bid opening where specifications have been revised. FAR § 14.404-1(c)(2). The protester concedes that the scope of work required by IFB-0030 differs from IFB-0051 with regard to the landscaping services, and it would be improper for the agency to award a contract to the protester under IFB-0051 with the intent of issuing a modification to provide for the performance of the landscaping services. Zwick Energy Research Org., Inc., B-237520.3, Jan. 25, 1991, 91-1 CPD ¶ 72.

The protest is denied.

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