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Decision

Matter of: Diversified Maintenance Systems, Inc.

File: B-423054.4

Date: November 19, 2025

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Deana Jaeger, Esq., and Erin Hernandez, Esq., Department of the Navy, for the agency.

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DIGEST

Protest of an agency's cancellation of a solicitation is denied where the record demonstrates that the agency had a reasonable basis to cancel the solicitation.

DECISION

Diversified Maintenance Systems, Inc. (DMS), a woman-owned small business of Sandy, Utah, protests the cancellation of request for proposals (RFP) No. N62473-22-R-4003, issued by the Department of the Navy, Naval Facilities Engineering Systems Command, for commercial and institutional building alteration, repair, and construction services at Naval Base Ventura County (NBVC), California. DMS contends that the Navy's cancellation of the RFP was unreasonable and a pretext to avoid awarding a contract to DMS.

We deny the protest.

BACKGROUND

On November 16, 2022, the Navy issued the RFP as a women-owned small business set-aside, which contemplated the award of a single indefinite-delivery, indefinite-quantity job order contract (JOC) for a total 8-year ordering period for

construction projects.¹ RFP at 3, 7. Firm-fixed-price task orders between \$2,000 and \$1,000,000 would be placed against the JOC and the contractor would “provide [commercial and institutional building construction] alteration, repairs, and construction services with minimal design requirements for new minor construction, facility repair, rehabilitation, and alterations for a broad range of renovation and construction work.” RFP at 3, 103. The JOC was intended to provide rapid response construction work “in a cost effective manner” and this JOC would be “one of many tools for contracting” that the Navy could use to acquire the required construction services in the NBVC area. *Id.* at 103.

The solicitation contemplated award to the responsible offeror whose proposal conforms to the solicitation terms and represents the best value to the government, price and non-price factors considered. *Id.* at 17-18. The four non-price factors were: (1) ability to manage multiple simultaneous projects; (2) experience; (3) past performance; and (4) safety. *Id.* at 17. The combined non-price factors were approximately equal in importance to price, with price becoming more important if the non-price proposals were essentially equal or if the price was either “so high, or low, as to significantly diminish the value of a non-price proposal’s superiority to the Government.” *Id.* at 17-18.

After receiving and evaluating proposals, the Navy selected MGS Construction Services, Inc.’s (MGS’s) proposal for award. Contracting Officer’s Statement and Memorandum of Law (COS/MOL) at 3. Following the award to MGS, DMS filed protests with our Office in October 2024, challenging the agency’s evaluation of proposals and best-value determination. *Id.* The Navy subsequently informed our Office it intended to take corrective action by reevaluating proposals and making a new best-value tradeoff decision, whereupon we dismissed the protests as academic. *Diversified Maint. Sys., Inc.*, B-423054, B-423054.2, Oct. 24, 2024 (unpublished decision).

In May 2025, after reevaluating, the agency again determined that MGS’s proposal provided the best value and selected it for award. COS/MOL at 4. DMS filed another protest with our Office. While DMS’s protest was pending, the Navy reviewed the RFP and determined that the solicitation was outdated and did not represent the agency’s current requirements. *Diversified Maint. Sys., Inc.*, B 423054.3, July 2, 2025 (unpublished decision) at 1. Consequently, the Navy notified our Office that it intended to cancel the solicitation, and we dismissed the protest as academic. *Id.* at 1-2. This timely protest followed.

¹ The solicitation was amended ten times and citations to the record use the Adobe PDF pagination of the document file produced. Agency Report (AR), Exh. 1, RFP; AR, Exh. 2, RFP amends. 1-10.

DISCUSSION

DMS argues that the Navy lacks a reasonable basis to cancel the RFP. In this regard, the protester challenges the reasonableness and timing of the agency's determination that the solicitation no longer reflects the agency's current requirements. DMS argues that the solicitation is adequate to address the agency's needs because of the flexibility inherent in the nature of the JOC. Protest at 9-12; Comments at 2-9. Rather, DMS asserts that the cancellation is a pretext to avoid awarding the contract to DMS and to avoid litigating the protest DMS filed challenging the award to MGS. Protest at 10-11; Comments at 9-10. The Navy responds that cancelling the RFP was reasonable due to changed program requirements, realignment of agency functions, and risk to the government if it relied on the solicitation's current requirements. COS/MOL at 6-10; Agency Resp. to Comments at 1-5; Agency Resp. to Comments exh. A, Decl. of Contracting Officer (hereinafter Decl. of Contracting Officer) at 1-6. As discussed below, we find no basis to sustain the protest.²

In a negotiated procurement, such as the one here, a contracting agency has broad discretion in deciding whether to cancel a solicitation and need only establish a reasonable basis for doing so. See *T.W. Recycling*, B-413256, Sept. 16, 2016, 2016 CPD ¶ 261 at 4; *SupplyCore Inc.*, B-411015.8, May 27, 2016, 2016 CPD ¶ 153 at 3. A reasonable basis to cancel exists when an agency determines that a solicitation does not accurately reflect its needs. *RCR Props., G.P.*, B-414590, July 21, 2017, 2017 CPD ¶ 231 at 3. Moreover, an agency may properly cancel a solicitation regardless of when the information precipitating the cancellation first surfaces or should have been known. *Henry's Aerial Serv., Inc.; Evergreen Flying Servs., Inc.*, B-414238.7, B-414238.9, Aug. 10, 2017, 2017 CPD ¶ 257 at 5.

Where, as here, a protester alleges that the agency's rationale for cancellation is pretextual, that is, that the agency's actual motivation is to avoid awarding a contract on a competitive basis or to avoid resolving a protest, we will nonetheless examine the reasonableness of the agency's actions. *VIRE Consulting, Inc.*, B-408148.2, Nov. 26, 2013, 2013 CPD ¶ 272 at 3. Thus, even if it can be shown that personal animus or pretext may have supplied at least part of the motivation to cancel the procurement, the reasonableness standard applicable to cancellation of a solicitation remains unchanged. *Id.*; *SupplyCore Inc.*, *supra*.

The Navy explains that the canceled RFP does not represent the agency's current requirements in several areas. First, the current NBVC maintenance program requirements are different from what was planned when the solicitation was issued in November 2022. COS/MOL at 6; Decl. of Contracting Officer at 1. According to the contracting officer, the work now planned for 2026, 2027, and 2028 has changed significantly from the work anticipated when the solicitation acquisition planning was

² While we do not address in detail every argument raised, we have reviewed them all and do not find any basis to sustain the protest.

completed and the size, type, and complexity of the work at NBVC is very different. COS/MOL at 6; see *a/so* Decl. of Contracting Officer at 1-4.

More specifically, the contracting officer states that many of the requirements initially planned for performance under the instant JOC have been satisfied. Decl. of Contracting Officer at 2-4; Agency Resp. to Req. for Additional Docs., Sept. 4, 2025, attach. at 3-7. The Navy explains that between the initial planned award date and July 2025, the Navy awarded 126 contracting actions valued at over \$17.7 million for orders ranging from approximately \$9,000 and \$1,000,000. Decl. of Contracting Officer at 2. According to the contracting officer, these actions “represent requirements that were intended to be ordered under the proposed NBVC JOC that have been satisfied by other means and in turn removed the driving force for why the JOC was needed in the first place.” *Id.* The contracting officer explains that the JOC was intended to be agile and able to adjust to annual programmatic changes based on single-year appropriations, and that fewer current requirements combined with changes based on realignment of agency functions and personnel diminish the agency’s need for this requirement. *Id.* at 2-3.

Moreover, the Navy explains that certain agency functions have been realigned recently and work delegation within the agency has changed. COS/MOL at 6; Decl. of Contracting Officer at 1-2. In this connection, work previously performed by the production divisions of the Navy’s public works departments will be performed by a regional Navy entity that “does not have the depth of personnel” to perform contract execution work. Decl. of Contracting Officer at 1-2; see *a/so* COS/MOL at 6-7. Due to the realignment of work, a hiring freeze, and the Navy’s deferred resignation programs, “the [a]gency’s workforce has been reshaped and there are new limitations as to what efforts the [a]gency’s [p]roduction [d]ivisions can complete, and for which contracts the Agency can provide construction oversight.” COS/MOL at 7; see *a/so* Decl. of Contracting Officer at 2-3. As a result, the agency will need to increase the ordering limits provided for in the current solicitation. COS/MOL at 7; Decl. of Contracting Officer at 2, 4. In the agency’s view, the current priorities of the Department of Defense, the changed workforce, and work performed under other contracts dictate that the most prudent solution “is to cancel this JOC procurement and pursue a more appropriate ordering vehicle to satisfy the [NBVC’s] requirements based on the current and anticipated demands.” *Id.* at 3.

The agency also explains the projected construction services required for 2026, 2027, 2028, and beyond are different from what was initially projected under the solicitation because its requirements are larger and more complex than the general construction JOC orders contemplated by the RFP. *Id.* at 4-5. According to the Navy, it learned firsthand the limits of the solicitation and “expended considerable sums of additional money to correct mistakes” from using a public works department JOC when the agency’s needs require “design/engineering, or the ability to negotiate solutions outside

of the constraints of the R.S. Means Price Book.”³ *Id.* at 5. The agency further explains that it has expanded its other contract vehicles to include smaller requirements and construction services so that the JOC awarded under this solicitation would be redundant and underused. *Id.*

Our review of the record provides no basis to sustain DMS’s protest. Here, the Navy reasonably determined that the solicitation as issued no longer meets its needs. In this connection, the contracting officer explains that the agency no longer has the same requirements because they have been performed or are being performed under other contracts. The contracting officer also explains how changes to the agency’s internal organizational structure and personnel impacted contract administration such that the solicitation’s current maximum order limitation would be insufficient because the Navy needs the capacity to fulfill larger requirements. The contracting officer also explains that, through experience, the Navy learned that the kind of contract under the solicitation was not optimal for obtaining the required construction services, which had a greater degree of complexity than initially expected. In this regard, the contracting officer stated that the general construction nature of the JOC was “detrimental” to fulfilling “complex or prototypical requirement[s] that are more frequently encountered on military installations” when the Navy requires more design/engineering solutions, or the ability to negotiate outside of the R. S. Means Price Book. Decl. of Contracting Officer at 5.

DMS argues that the JOC nonetheless remains a viable contract vehicle for the agency’s requirements. DMS Resp. to Agency Resp. to Comments at 4-8. The protester points out that the agency continues to issue task orders under other JOC contracts, demonstrating that the Navy continues to use JOCs for smaller requirements. *Id.* at 5-8. The protester also contends that the agency’s assertion that its requirements have been performed by other contracts is not supported in the record. In this regard, the protester asserts the agency simply submitted a list of every task order issued under other JOCs between September 2022 and August 2025, including orders issued before proposals were due and before the JOC was awarded to MGS initially in October 2024, which shows the agency did not determine what requirements initially planned had been addressed by other contracts when it decided to cancel the solicitation. *Id.* at 1-4.

Although the protester disagrees with the agency’s assessment of its own requirements, the protester has not demonstrated that the agency’s decision to cancel was unreasonable. A protester’s disagreement with the agency’s judgment concerning the agency’s needs and how to accommodate them does not establish that the agency’s judgment is unreasonable. *Computer World Servs. Corp.*, B-416042, May 22, 2018,

³ R. S. Means Price Book refers to commercial database products and a pricing book that track the costs of construction materials, labor, and equipment. *Midnight Sun-Centennial Sunnliq JV, LLC*, B-420583.4, May 11, 2023, 2023 CPD ¶ 118 at 2 n.2; About RS Means Data from Gordian, <https://www.rsmeans.com/info/contact/about-us> (last visited Sept. 25, 2025).

2018 CPD ¶ 191 at 4. The agency has expressed legitimate concerns with the RFP's requirements as previously written and advised that its requirements have changed because some have been satisfied under other contracts. The fact that DMS identified task orders that were issued under other JOCs before the agency awarded this JOC does not provide our Office with a basis to question the cancellation when the record shows that the requirements have materially changed and no longer exist under this solicitation.

The protester also argues that agency's cancellation of the solicitation was a pretext to avoid awarding to DMS and litigating the protest. Protest at 10-11; Comments at 9-10. The Navy responds that its decision to cancel the solicitation was not pretextual but that even if we assume it was, the Navy has provided a non-pretextual reasonable basis to cancel the solicitation. COS/MOL. at 10-12; Agency Resp. to Comments at 5.

The agency's decision to cancel the solicitation post-protest and in the heat of litigation is, however, unobjectionable. An agency may properly cancel a solicitation regardless of when the information precipitating the cancellation first surfaces or should have been known. *Henry's Aerial Serv., Inc., supra*. Furthermore, even if we were to assume that pretext may have supplied at least part of the motivation to cancel the solicitation, the reasonableness standard applicable to cancellation of a solicitation remains unchanged, *VIRE Consulting, Inc., supra*, and here, we find the agency's decision to cancel the solicitation was reasonable.

In conclusion, generally, where, as here, an agency discovers that its requirements have materially changed, such that the solicitation no longer reflects the agency's actual requirements, the appropriate course of action is for the agency to cancel the original solicitation and issue a new one to reflect the agency's actual requirements. See *RCR Props., G.P., supra*. Here, the reductions in expected construction services and changes based on realignment of agency functions and personnel diminish the agency's need for the requirements and provide a reasonable basis for canceling the solicitation. Even if we were to agree with the protester's argument that the Navy's desire to avoid litigating DMS's protest supplied at least part of the motivation to cancel the procurement, the record reasonably supports the agency's decision because the RFP no longer accurately reflects the agency's needs.

The protest is denied.

Edda Emmanuelli Perez
General Counsel