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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: CAT Flight Services, Inc.

File: B-294186

Date: August 17, 2004

Larry J. Bradford for the protester.

Joshua Kranzberg, Esq., U.S. Army Materiel Command, for the agency.

Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging cancellation of a request for proposals is denied where record shows that, due to a significant reduction in agency's requirement for the solicited items, as well as the fact that agency was able to meet its requirements under another, preexisting contract, it no longer has a need for the items.

DECISION

CAT Flight Services, Inc. protests the cancellation of request for proposals (RFP) No. DAAH01-03-R-0316, issued by the Department of the Army for a quantity of ballistic aerial target systems (BATS).¹

We deny the protest.

The solicitation sought proposals to furnish a first-article quantity of 10 BATS, and subsequent production quantities ranging from 1 to 700 BATS, during each of 4 option years, and from 1 to 2,000 BATS during a fifth option year. The Army received several initial proposals, established a competitive range that included the protester, engaged in discussions with the competitive range firms, and sought final proposal revisions (FPR). After receiving the FPRs, the agency requested that the offerors extend their proposal acceptance period for 30 days. Prior to the expiration

¹ The BATS is an expendable, unguided rocket powered target used to train defensive air gunnery personnel that are assigned to the Army's short range air defense (SHORAD) battalions.

of the extended acceptance period, the agency canceled the RFP, stating that its need for the BATS had been drastically reduced to a quantity of only approximately 143 per year, a requirement it could fulfill under another, preexisting contract with another concern, Costal Metal Craft (CMC).

The record shows that agency issued the RFP in the first instance because of a concern that CMC would not be able to perform its contract. In this regard, CMC apparently experienced performance difficulties both in terms of meeting the delivery schedule (which contemplated delivery of 100 BATS per month), and in terms of performing at its proposed prices. Due to these concerns, the agency issued the current solicitation to ensure that it would be able to meet its needs for BATS. Contracting Officer's Statement, July 14, 2004, at 2-5. In an effort to at least partially meet its BATS needs while the current acquisition was being conducted, the agency engaged in negotiations with CMC. This resulted in a modification of CMC's original delivery schedule (downward to 40 BATS per month) and an increase in its unit price that was occasioned by a design modification to the BATS. Id. Thereafter, in April 2004, the agency learned that there would be a significant reduction in the number of personnel assigned to SHORAD battalions; the agency's requirement for BATS was correspondingly reduced, since fewer personnel would have to be trained using the BATS. AR, exh. E. The agency concluded that, in light of the reduction in its requirement to only 143 BATS per year and the revised delivery schedule under CMC's contract, it no longer would require the BATS being solicited under the current RFP. The Army canceled the solicitation on this basis.

CAT argues that the cancellation was unreasonable because the RFP was structured in such a way that the agency properly could have ordered any quantity, including the significantly reduced quantity that it now states it needs, and that it was improper for the agency to meet its requirements under the CMC contract while at the same time soliciting offers for a contract for the same requirement. CAT concludes that the agency either should make award under the solicitation or reimburse CAT the costs associated with preparing its proposal.

An agency need only advance a reasonable basis to cancel an RFP, and cancellation is reasonable where the solicitation no longer reflects the agency's requirements. Daston Corp., B-292583, B-292583.2, Oct. 20, 2003, 2003 CPD ¶193 at 3. Cancellation is proper no matter when the information precipitating the cancellation comes to light, even if this results in cancellation after the receipt of proposals. Id.

As discussed above, the record shows that, due to the agency's need for a reduced quantity of BATS and CMC's ability to meet that reduced need under its current contract, as modified, the agency no longer needed the BATS covered by the solicitation in question. Given these circumstances, the cancellation was reasonable. Daston Corp., supra. The fact that a contract awarded under the solicitation could have been used to meet the agency's reduced needs is irrelevant; since the agency had a contract in place with CMC that already covered the agency's BATS requirements, there was nothing improper in its ultimate decision to modify that

contract to meet its needs. The agency's actions in this regard constituted contract administration activities, which are not subject to review under our bid protest jurisdiction. 4 C.F.R. § 21.5(a) (2004).² While it is unfortunate that CATS incurred costs in responding to the RFP, there was nothing improper or unreasonable in the agency's issuing the solicitation for purposes of ensuring that it would have an adequate quantity of BATS no matter the outcome of its negotiations regarding the terms of CMC's contract. Under the circumstances, the cancellation was unobjectionable.

There also is no basis for our Office to recommend that CAT be reimbursed the costs associated with preparing its proposal. We recommend the payment of such costs only where we find that a protest is meritorious, and there no longer is any other practicable remedy. Locus Tech., Inc., B-293012, Jan. 16, 2004, 2004 CPD ¶ 16 at 6-7.

The protest is denied.

Anthony H. Gamboa
General Counsel

² CAT does not allege--and the record does not reflect--that the agency's negotiations with CMC that resulted in a change to its delivery schedule resulted in an out-of-scope modification of CMC's contract.