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Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

## Decision

**Matter of:** The Continuum Engineering

**File:** B-409723

**Date:** July 15, 2014

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Tarun Ghosh, for the protester.

Capt. Tyler Davidson and Scott N. Flesch, Esq., Department of the Army, for the agency.

Gary R. Allen, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Agency determination that specifications under invitation for bids (IFB) are inadequate to meet the government's minimum requirements constitutes a compelling reason to cancel IFB after bid opening.

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### DECISION

The Continuum Engineering (TCE), of Los Angeles, California, protests the Department of the Army's decision to cancel invitation for bids (IFB) No. W91243-14-T-0002 for non-personnel services to provide a biological processing course for the Nebraska National Guard.

We deny the protest.

The Army issued the IFB on February 14, 2014, as an 8(a) set-aside on behalf of the Nebraska Army National Guard Civil Support Team (NE CST) for a biological processing course. CO Statement at 1. The Performance Work Statement (PWS) sought classroom training for NE CST members in biological hazardous material awareness and remediation. Agency Report (AR), Tab 4, PWS at 1. By the closing date of February 21, the agency had received two bids, including TCE's, which was the lowest bid. CO Statement at 1.

After the bid opening, the agency asked TCE to provide its proposed training curriculum for review. Subsequently, the agency discovered that the IFB did not fully state the training requirements. The actual requirement sought training for handling chemical warfare agents, in addition to the stated requirement for training to identify and handle biologically hazardous materials. CO Statement at 1.

The agency's review of TCE's bid revealed that it did not meet the actual requirement because it only covered biologically hazardous materials. Id. Furthermore, the agency determined that the requirement could be met within the government. Id. The agency cancelled the solicitation. This protest followed.

The protester raises numerous arguments objecting to the cancellation of the solicitation. TCE argues that the Army should have sought to negotiate with TCE to meet the actual requirements. Protest at 3.

Although a contracting officer has broad discretion to cancel an IFB, there must be a compelling reason to do so after bid opening because of the potential adverse impact of cancellation on the competitive bidding system after bid prices have been exposed. See Federal Acquisition Regulation (FAR) § 14.404-1(a)(1) (2014). The regulations authorizing cancellation after bid opening specify that inadequate specifications may constitute a compelling reason to cancel an IFB. FAR § 14.404-1(c)(1). As a general rule, the need to change requirements after bid opening to express properly the agency's minimum needs also constitute a compelling reason. American Consulting Services, Inc., B-276149.2, B-276537.2, July 31, 1997, 97-2 CPD ¶ 37 at 4. Our Office generally regards cancellation after opening of bids to be appropriate when an award under the solicitation would not serve the actual minimum needs of the government or when other bidders would be prejudiced by such an award. United States Elevator Corp., B-225625, Apr. 13, 1987, 87-1 CPD ¶ 401 at 3. Our review is limited to considering the reasonableness of the contracting officer's discretion. Motorola, Inc.; Gen'l Elec. Co., B-221391.2 et al., May 20, 1986, 86-1 CPD ¶ 471.

The record shows that the IFB was materially defective. The IFB did not provide for performance of the Army's actual need for instruction concerning both chemical warfare agents and biologically hazardous material. Furthermore, the course TCE proposed in its bid did not include training for handling chemical warfare agents. CO Statement at 2. Under these circumstances, the agency reasonably determined that it had a compelling basis to cancel the IFB.<sup>1</sup>

The protest is denied.

Susan A. Poling  
General Counsel

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<sup>1</sup> TCE makes numerous other arguments in its protest. Because we find that the agency had a reasonable basis for cancelling the solicitation, we will not address these other arguments.