

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-214295

DATE: May 22, 1984

MATTER OF: Anvan Realty & Management Co.

DIGEST:

1. As a general rule, cancellation of a solicitation renders a protest alleging that an agency does not intend to adhere to the evaluation criteria announced in that solicitation academic, and GAO will dismiss the matter.
2. In a negotiated procurement, cancellation of a solicitation requires only a reasonable basis, as distinguished from the cogent and compelling reason required to cancel a formally advertised solicitation after bid opening. This rule also applies to a solicitation for a lease that has been negotiated.
3. GAO will not retain jurisdiction of a protest when the solicitation has been properly canceled, even though the protester so requests. If, upon issuance of a new solicitation, the protester believes it has been improperly excluded from the competition, it may file a new protest under GAO Bid Protest Procedures.

Anvan Realty & Management Co. protests the proposed award of a lease by the General Services Administration's Region 5, Chicago, Illinois, to any other offeror. Because GSA has canceled the solicitation, we dismiss the protest.

Under solicitation for offers GS-05B-14096, GSA initially sought offers for a 10-year lease of approximately 80,000 square feet of office space in Chicago's central business district. The solicitation defined a specific geographic area in which the space must be located, but stated that buildings on either side of the named streets enclosing the area would be considered. Anvan's building, One Congress Center, is located on the southeast corner of State and Van Buren Streets, i.e., diagonally across two of the streets that form the boundary of the enclosed area.

B-214295

According to the protest, although GSA actively negotiated with Anvan beginning in April 1983, on January 31, 1984, 1 day before the proposed award date, GSA notified Anvan that the offer was no longer considered to be within the relevant geographic area. Anvan argues that it presented the best offer, qualified for a solicitation preference for space in an historic building, and incurred substantial expenses in preparing its offer for GSA. The firm requests that we direct GSA to make award to it.

During development of the protest, the Internal Revenue Service, the potential occupant of the space, notified GSA that while it originally had anticipated consolidating several operations of its Chicago Regional Office in one location, it was withdrawing its request for consolidated space. Specifically, the IRS stated that it had acquired 8 major computer systems, including 4 central processing units and 82 peripheral units that had not been projected or included in its original request for space; in addition, it had been directed to establish a computer-based training center. Along with increased regional staffing, the IRS stated in an April 4, 1984 memorandum to GSA's Region 5 administrator, these new systems required a total review of space consolidation plans. IRS advised GSA that it expected to complete this review within 90 days. GSA therefore canceled the solicitation on April 24, 1984, and notified all offerors that it would contact them if there was a resolicitation.

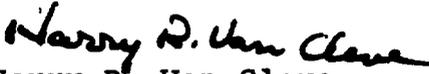
Anvan advises our Office that it does not wish to withdraw its protest, implying that GSA and IRS have canceled the solicitation as a means of evading our review of their procurement practices and to obtain an opportunity to "gerrymander" Anvan out of consideration for award. Anvan urges us to retain jurisdiction or, if we dismiss the protest, to direct GSA to serve it personally with any new solicitation, whether or not the agency believes Anvan can meet its requirements.

As a general rule, cancellation of a solicitation renders a protest such as this, which in effect is an allegation that GSA did not intend to adhere to the evaluation criteria announced in its solicitation, academic. If a protester is unwilling to withdraw, we will dismiss the matter. See CTEC, Inc., B-212276, Nov. 29, 1983, 83-2 CPD ¶ 622.

Even if we regard Anvan's letter of May 3 as a timely protest against the cancellation, we find it without merit. In a negotiated procurement, only a reasonable basis is needed for cancellation (as distinguished from the cogent and compelling reason required to cancel a formally advertised solicitation after bid opening). See Northpoint Investors, B-209816, May 17, 1983, 83-2 CPD ¶ 523, applying this rule to a lease.

IRS's needs for space for its new computer system and training program reasonably require it to reassess its total space needs. In view of IRS's withdrawal of the request for consolidated space, we find GSA's decision to cancel the solicitation also reasonable. If, upon issuance of a new solicitation, Anvan believes that it has improperly been excluded from the competition, it may, of course, file a new protest in accord with our procedures, 4 C.F.R. Part 21 (1984). See J. J. Vinci Oil Co., B-212112.3, Aug. 29, 1983, 83-2 CPD ¶ 274.

The protest is dismissed.


Harry R. Van Cleve
Acting General Counsel