

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

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B-168259(4)
B-168732

OCT 20 1970

Breed Corporation
20 Spielman Road
Fairfield, New Jersey 07006

Attention: Mr. Allen Breed
President

Gentlemen:

Your letter of January 30, 1970, protested the cancellation of invitation for bids No. F42600-70-B-1333, issued by Hill Air Force Base, Utah, for 86,730 MAU-87/B drive assembly couplers. The cancellation of the set-aside portion of another invitation for the same item (invitation for bids No. F42600-69-B-3486) was protested by Contract Machining Corporation and from Forest Scientific, Inc. Those protests are the subject of our decision of today, B-168259, B-168259(3) copy herewith.

The invitation -1333 was issued on September 3, 1969, and bids were opened on October 7, 1969, but because of delays in determining the responsibility of your firm, the second low bidder, and that of Forest Scientific, the low bidder, no award had been made by January 23, 1970, when bidders were advised by the Air Force that:

"A re-analysis of the requirement in subject IFB discloses that these assets are no longer needed by the Air Force, therefore, IFB F42600-70-B-1333 is cancelled."

You point out that notwithstanding the cancellation action, another invitation for the same item, invitation for bids No. F42600-70-B-1764, was issued on January 16, 1970, and you therefore dispute the claim of the Air Force that the items called for by invitation -1333 were "no longer needed."

The position of the Department of the Air Force with regard to this cancellation is set forth in a contracting officer's statement dated March 2, 1970, wherein it is stated:

" * * * A delay in award resulted from negative pre-award surveys issued on the low bidder (Forest Scientific, Inc.) and the second low bidder (Breed Corp.). The consequential

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delay in delivery of hardware, in part, required that requirements be re-evaluated, especially in view of reduced usage, computed FY70 program requirements, and technical changes which had occurred since IFB F42600-70-B-1333 had been issued.

"Value Engineering Change Proposals were accepted on 3 Dec 1969 and 19 Jan 1970. These materially changed applicable drawings, the material composition (i.e., housing from aluminum bar to die cast aluminum and plate bearing from aluminum to steel), and the manufacturing processes. These changed conditions plus the probable quantity price break from soliciting the FY70 requirement of 477,709 * * * in total as opposed to awarding 86,730 * * * on IFB F42600-70-B-1333 and soliciting only 390,979 dictated that IFB F42600-70-B-1333 be cancelled. The VECP's were incorporated into IFB F42600-70-B-1754 on 10 Feb 1970 and the opening extended to 17 Mar 1970."

A supplemental contracting officer's statement submitted in response to questions propounded by our Office concerning the relationship between invitations -1333, -1754, and -3486 stated:

"IFB F42600-70-B-1754 (hereinafter IFB 1754) was issued 16 Jan 1970 for the second six months production of FY70 programmed requirements. Consideration was being given to adding the requirement of IFB 1333 to the second six months production on IFB 1754 for the purpose of incorporating VECP's approved 3 Dec 1969 and 19 Jan 1970. Before this could be accomplished, the requirement on IFB 1333 was cancelled. This cancellation was effected by reason of the fact that the requirement no longer existed. We considered reducing quantity on IFB 1754 and continuing with award under IFB 1333. This was not considered feasible since FY69 funds were not available for this item. It was determined the best solution was to cancel IFB 1333. This would also result in our getting the new configuration." (Emphasis supplied.)

While our decision B-168259, B-168259(3) of today questions the position of the Air Force that the specification changes were so significant as to warrant invitation cancellation after exposure of bid prices, the record substantiates the fact that the requirement for the specific quantity of couplers covered by invitation -1333 related to fiscal year 1969 requirements and that funds for that fiscal year were no longer available to procure these couplers. Therefore, while invitation -1764 was, as you contend, for the same item, as modified, such fact does not

