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**Comptroller General
of the United States**

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

Decision

Matter of: ELEIT Technology, Inc.

File: B-294193.2

Date: September 30, 2004

Billie Turmenne for the protester.

Capt. Richard M. Sudder, Department of the Army, for the agency.

Jennifer D. Westfall-McGrail, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where agency reasonably determined that its needs required the award of a single contract for a range of planning and management services rather than separate contracts for the various services, cancellation of request for proposals for a single category of services was justified.

DECISION

ELEIT Technology, Inc. protests the cancellation of request for proposals (RFP) No. DABK15-03-R-0014, issued by the Department of the Army for new equipment fielding services at Fort Hood, Texas. The protester contends that cancellation of the RFP was unreasonable because the Army continues to require the services.

We deny the protest.

This protest follows an earlier protest by ELEIT objecting to the rejection of its proposal and the award of a contract under the subject solicitation to Aquila Management. In response to ELEIT's protest, the agency terminated the contract awarded to Aquila. It also cancelled the underlying RFP to restudy the government's needs, the basic requirement, and the procurement strategy. Upon notification from the Army that it intended to cancel the solicitation, we dismissed ELEIT's protest as academic. ELEIT then protested the agency decision to cancel the RFP, arguing that the Army should instead proceed with award to it.

In response to the current protest, the Army explains that it is in the process of converting its forces to a modular configuration and that it has determined that awarding separate contracts for force modernization planning, new equipment

fielding, unit set fielding, and configuration management services is inefficient and does not provide it the flexibility and agility that it requires. Accordingly, it intends to revise its approach to soliciting these services and will seek to obtain them in a new all-inclusive contract, encompassing modularity plans analysis and management, operations plans and analysis, logistics plans and analysis, force management plans and analysis, and fielding analysis management.

The protester argues that cancellation of the RFP is unwarranted because the agency will be procuring essentially the same work under the reissued solicitation and because any required changes may be addressed through modification of the contract after award.

To the extent that the protester is arguing that cancellation of the RFP is improper because the agency still intends to procure new equipment fielding services, its argument ignores the essence of the agency's justification for cancellation, which is that, in light of recent developments, including the shift to modularity, the agency's needs will not be met by contracting for new equipment fielding services separately from force modernization planning, unit set fielding, and configuration management services. In other words, the agency's justification for cancellation is not that new equipment fielding services are no longer required; it is that it has determined that its needs require the award of a single contract for a range of services rather than separate contracts for each type of service. According to the agency:

Fieldings, reconfiguration, [and] modernization will occur at many points in the [expeditionary] cycle and will not be the linear process as currently designed. That is why the separate functions of fielding, planning, management, configuration management, force modernization, and unit set fielding must be integrated under a single organization that provides unified command and control of the contractor assets and maximizes [the agency's] flexibility in shifting expertise across this spectrum of requirements. The synchronization of these efforts with installation, infrastructure, training, logistics, personnel and other key enablers will also be essential – and is much broader than the vertical stove-pipe fielding only solution offers.

Contracting Officer's Statement, Sept. 14, 2004, at 2. Where, as we believe is the case here, an agency reasonably determines that an RFP does not accurately describe its needs, cancellation of the solicitation is appropriate. Source AV, Inc., B-241155, Jan. 25, 1991, 91-1 CPD ¶ 75 at 3.

In the alternative, to the extent that the protester is arguing that essentially the same types of skills and levels of expertise are required to support force modernization planning, unit set fielding, and configuration management as are required to support new equipment fielding--and thus that the agency's needs may be satisfied through award under the original RFP--acquisition of the foregoing services would clearly be beyond the scope of a contract for new equipment fielding services and accordingly

would be improper. See Precision Elevator Co., Inc., B-261041, B-261041.2, Aug. 9, 1995, 95-2 CPD ¶ 63 at 3-4. Similarly, with regard to the protester's argument that changes in the agency's requirements could be addressed through modification of the contract after award, it is improper for an agency to award a contract with the intent to materially alter the contract terms after award. PAI Corp; Viking Sys. Int'l; CER Corp.--Protests and Requests for Costs, B-244287.5 et al., Nov. 29, 1991, 91-2 CPD ¶ 508 at 4.

The protest is denied.

Anthony H. Gamboa
General Counsel