

The contracting officer then initiated the process for obtaining an internal review required before sending the proposed contract to the City Council, but the CPO decided that the RFP should be canceled and thus OCP did not submit to the Council the proposed award. (AR Ex. 3).

On March 1, 2010, the CPO signed a determination cancelling the solicitation, stating in relevant part:

After careful review, the Chief Procurement Officer (CPO) decided to cancel the solicitation in order to reassess the acquisition strategy and determine the most appropriate method to procure the required animal and control services. The CPO concluded that after a review of the best practices around the country, the District will prepare and issue a new solicitation to ensure the District obtains quality services at the best price for [the] residents of the District.

(AR Ex. 1). On March 29, 2010, Jenkins filed with the Board the instant protest of the cancellation of the RFP. The District filed its agency report on April 15, and the parties have filed various responsive pleadings.

On May 11, 2010, the contracting officer, James H. Marshall, filed a declaration stating, in pertinent part:

Prior to issuing RFP No. DCHC-2009-R-5026, on March 3, 2009, the Department of Health provided the Office of Contracting and Procurement with the results of market research conducted on the delivery of animal care and control services in the Washington metropolitan region. (Attachment 1) The market research was used exclusively for the purpose of projecting a fair and reasonable price for the delivery of the required services; the information was not considered for the purpose of identifying possible alternative acquisition strategies. The acquisition strategy to be used in the procurement was never in question due to the fact that the approach to be used in the procurement was consistent with the manner in which the services had been previously procured by the District.

On May 28, 2010, Marshall filed a supplemental declaration including a comprehensive outline of a national animal control and care research project to be conducted by OCP and the Department of Health to identify best practices to be utilized by the District, with a July 10, 2010 timeline for recommending an acquisition strategy.

DISCUSSION

Our standard of review of a cancellation determination is well settled. A request for proposals may be cancelled if the CPO determines that the action is taken in the best interest of the District government and there is a reasonable basis for cancellation. D.C. Code § 2-303.07; *JHARBO Limited, Inc.*, CAB No. P-0527, Jan. 16, 1998, 45 D.C. Reg. 8701, 8703; *Singleton Electric Co.*, CAB No. P-0411, Nov. 15, 1994, 42 D.C. Reg. 4888, 4893.

Jenkins argues that the cancellation is legally insufficient because the District does not provide facts upon which it may be concluded that there was a reasonable basis for the cancellation, stating that “[t]he C[P]O’s declaration contains no reference to *facts* of any kind that gave rise to the need to ‘reassess the acquisition strategy.’ ” (Response to Agency Report, at 3). We do not agree. The CPO’s cancellation determination and the contracting officer’s two

declarations clearly indicate a reasonable basis for cancellation, namely, the contracting agency's need to consider alternative acquisition strategies based upon a national survey. This type of determination is committed generally to the business judgment of the contracting official and we see no ground for concluding that the cancellation was arbitrary or irrational. Thus, we cannot agree with Jenkins that the cancellation rationale is unsupported.

CONCLUSION

Because the District's cancellation of the RFP has a reasonable basis, we deny Jenkins' protest.

SO ORDERED.

DATED: August 3, 2010

/s/ Jonathan D. Zischkau
JONATHAN D. ZISCHKAU
Chief Administrative Judge

CONCURRING:

/s/ Warren J. Nash
WARREN J. NASH
Administrative Judge