

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

FILE: B-185399

DATE: August 10, 1976

MATTER OF: Emerson Electric Company, Rantec Division

DIGEST:

Contracting agency properly negotiated contract on a sole-source basis under public exigency exception to formal advertising despite protester's contention that its proposed product will meet agency's needs within required delivery schedule, where reasonable support exists for agency position that substantial period of time would be required to test and qualify alternate source thus delaying award of urgently required antenna units.

Emerson Electric Company, Rantec Division (Rantec), protests the sole-source negotiated procurement of a quantity of AN/GRA-121 TACAN and AN/GRA-120 TACAN (GRA 121/120) antennas from International Telephone and Telegraph, ITT Avionics Division (ITT), under request for proposals (RFP) No. F04606-76-R-0211, issued by the Air Force's Sacramento Air Logistics Center, McClellan Air Force Base, California. These antennas are required to replace existing antennas.

Rantec contends that the sole-source procurement with ITT was improper, noting that Rantec currently produces a solid-state electronically scanned antenna which has been successfully developed and demonstrated and could be delivered within the required time frame. Rantec states that a model of its antenna was developed and successfully tested by AFLC under an initial development contract. A technical article authored by one of its employees was furnished in support of this position. Rantec also identifies a current production contract it has with the Department of the Navy and references the existence of "various other production orders."

Rantec vigorously disagrees with the Air Force that testing and qualifying its antenna would cause unacceptable delays on the grounds that "current schedules" indicate that full qualification testing will be completed by July 1976 at no cost to the Air Force. Rantec asserts it could meet the Air Force's delivery schedule.

Rantec also contends that, unlike its own solid-state product, the mechanical antennas being procured are not compatible with the current air-borne requirement for "Y" channel operation.

Rantec also questions the Air Force's assessment that ITT's antennas are very reliable and not costly to maintain. It contends that these mechanical antennas are subject to the same mechanical failures associated with the units they are replacing. Furthermore, Rantec alleges that the Air Force disregarded its own procurement policy by failing to conduct a life cycle cost analysis of both systems to determine which antenna would in fact be the most viable replacement for the existing TACAN antennas.

The Air Force, on the other hand, states that the antennas procured from ITT have been extensively tested and satisfy Air Force performance requirements and that previous use in the field has proven them to be superior in performance to all other field station TACAN antennas (both military and civilian). The Air Force advises that the substantial time needed to qualify other antennas was estimated to delay award of the contract more than 1 year, a period which was unacceptable in view of the urgent need. The Air Force also denies that it has any current requirement for the "Y" channel.

The Air Force concedes that a model of Rantec's antenna was developed and tested. However, it points out that a number of deficiencies were noted and further testing and qualification were found to be necessary. The Air Force concluded, after what it regards as a thorough investigation, that the Rantec system is still in the developmental stage and is not yet considered an alternate piece of hardware capable of replacing its current TACAN mechanical antennas.

The subject procurement was negotiated under 10 U.S.C. 2304(a)(2)(1970), the "public exigency" exception to formal advertising, because it was assigned a Uniform Material Movement and Issue Priority System (UMMIPS) 05 priority designator. This is consistent with Armed Services Procurement Regulation (ASPR) § 3-202.2(vi)(1975 ed.). While the "public exigency" exception does not per se authorize a sole-source procurement, it does clothe the contracting officer with considerable discretion to determine the extent of competition consistent with the urgent needs of the Government. 52 Comp. Gen. 57, 62 (1972); Janke and Company, Inc., B-181064, August 29, 1974, 74-2 CPD 126. In determining the propriety of contracting

B-185399

officer's decision to make a sole-source award, the standard to be applied is reasonableness and unless it is shown that the contracting officer acted without a reasonable basis, we will not question the proposed award. Engineering Research, Inc., B-180893, September 12, 1974, 74-2 CPD 161; Leo Kanner Associates, B-182340, April 4, 1975, 75-1 CPD 205. An agency's decision to procure on a sole-source basis can be justified where procurement from other sources would present an unacceptable technical risk in view of a tight delivery schedule. California Microwave, Inc., 54 Comp. Gen. 231 (1974), 74-2 CPD 181; Hughes Aircraft Company, 53 Comp. Gen. 670, 676 (1974), 74-1 CPD 137.

We are unable to conclude from the record that the contracting officer acted unreasonably in negotiating with ITT on a sole source basis. Accordingly, the protest is denied.

We do not believe it necessary to examine into the accuracy of the life cycle cost analysis. The Air Force's determination to negotiate sole-source with ITT was not based on any cost considerations but, rather, on the urgent requirement for the antennas and the lack of qualified alternate sources. Regardless of possible savings to the Government, the procurement's tight delivery schedule would not permit the delay incident to the testing and qualification of its product. Therefore, the accuracy of the cost analysis does not affect the validity of the sole-source procurement decision.

Deputy


Comptroller General
of the United States