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DECISION



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

FILE: B-197647

DATE: July 11, 1980

MATTER OF: Power Testing, Incorporated

DIGEST:

Protest against sole-source procurement is denied where agency justifies award on grounds that awardee was only contractor capable of performing requirement within necessary timeframe and that agency had insufficient data to conduct competitive procurement, and protester has not shown that agency justification is unreasonable.

Power Testing, Incorporated (Power), protests the award by the Department of the Navy (Navy) of a sole-source procurement to General Electric Company (GE) under solicitation No. N00140-80-Q-0117. The procurement is for the repair and testing of 19 GE-manufactured circuit breakers from the USS GUAM. Power contends that the Navy did not have adequate justification for making the award to GE on a sole-source basis.

We find the protest to be without merit.

The Navy has justified the sole-source award on three major bases. First, the Navy contends that GE was the only contractor capable of completing the overhaul within the required timeframe. Second, the Navy asserts that only GE could have acquired the parts necessary for the overhaul within the required timeframe. Third, the Navy states that it did not have adequate data to conduct a competitive procurement.

Power denies each of the Navy's contentions. First, Power contends that it had the capability to complete the overhaul within the required timeframe. Second, Powers asserts that the repair parts needed for the overhaul are just as available to Power as they are to GE. Third, Power contends that the test procedures, drawings, and schematics for the circuit breakers are readily available.

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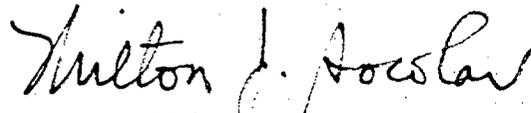
Where a contracting agency justifies a sole-source procurement on the basis that only one source can meet its requirements or that adequate data are not available to conduct a competitive procurement within the necessary time period, the protester must meet the heavy burden of presenting evidence which shows that such action is arbitrary, capricious and an abuse of administrative discretion. Allen and Vickers, Inc., 54 Comp. Gen. 1100 (1975), 75-1 CPD 399; Pioneer Parachute Co., Inc., B-190798, B-191007, June 13, 1978, 78-1 CPD 431. In addition, when this action by the procuring agency is based on the agency's technical conclusions concerning its needs, our Office will give great weight to those conclusions and accept them unless there is a clear showing that the conclusions are arbitrary. Industrial Acoustics Company, Inc; Ferguson Door Company, Inc.; Environmental Elements Corporation, B-194517, February 19, 1980, 80-1 CPD 139. This showing requires the production of some probative evidence or data to substantiate the protester's assertions. Bell & Howell Corporation; Realist Inc., B-193301, February 6, 1979, 79-1 CPD 82. Mere disagreement with the agency's grounds for the sole-source procurement is not a sufficient showing for this Office to find the agency's conclusions unreasonable. EMI Medical Inc.; Picker Corporation, B-195487, February 6, 1980, 80-1 CPD 96.

The Navy's justification for the sole-source procurement to GE is based on certain technical conclusions it has made regarding GE's capability to refurbish the circuit breakers within a definite timeframe. Power, in attempting to refute the Navy's conclusions, has relied solely on its own statements to the contrary. Power has not substantiated its contentions by submitting any probative evidence or data to our Office and thus has failed to persuade us that the work could be done in 1 week and that data were readily available. Therefore, Power has failed to meet the burden of proof.

Accordingly, the protest is denied.

We note, however, that in recognition of the statutory requirement for maximum practical competition (10 U.S.C. § 2304(g) (1976)), the Navy reports

that efforts are being made to avoid sole-source procurements from original equipment manufacturers when circumstances permit. In this connection, it is reported that there will be a competitive procurement for a refurbishment of circuit breakers from the USS SARATOGA. The Navy should continue efforts to preclude continued sole-source procurements of this nature. Aero Corporation, B-194445.3, December 20, 1979, 79-2 CPD 430.



For The Comptroller General
of the United States