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DECISION



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

[Protest of Sole-Source Contract Award]

FILE: B-200551

DATE: December 29, 1980

MATTER OF: CPT Corporation

DIGEST:

Protester has burden of affirmatively proving its case. Burden has not been met where, as here, only evidence is conflicting statements of parties as to whether protester's equipment would satisfy Government's legitimate needs and consequently, sole-source procurement from another vendor was not improper.

CPT Corporation protests the sole-source award of a contract for word processing equipment to Lexitron Corporation by the Department of the Army under request for proposals (RFP) No. DAKF27-80-R-0234. CPT contends that it is a capable source for the equipment and, therefore, should have been solicited on a "brand name or equal" basis. Consequently, it asserts that the sole-source procurement from Lexitron was improper. For the reasons that follow, we are denying the protest.

The record shows that the word processing equipment was procured on the basis of a "brand name" sole-source justification for use at three different locations within the Army's Intelligence and Security Command (INSCOM). According to the Army, the sole-source contract was awarded to Lexitron pursuant to 10 U.S.C. § 2304(a)(10) (1976), as implemented by Defense Acquisition Regulation § 3-210.2(i) (1976 ed.), i.e., it was impracticable to obtain competition. In reviewing word processing equipment available, the Army found that only the Lexitron equipment offered all the features it considered essential. To be more specific, the Army asserts that Lexitron's equipment alone has the following features which the Army emphasizes, but argues are not the only ones it considers essential:

1. Large internal memory.
2. Incremental upgrading capability by adding supplemental equipment.

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3. Compatibility with existing equipment.
4. Versatile sort capability which allows sequential arrangement of information.
5. Wide carriage and horizontal scroll providing greater output flexibility.
6. Computer linkage capability and "Tempest" security.

We have been informed by the Army that all the word processing equipment has been delivered and installed.

In response to the Army report, CPT made the general allegation that it produces equipment "meet[ing] or exceed[ing]" all of the Army's requirements. However, CPT also acknowledged that "since [INSCOM's] functions are classified in nature, [it does] not question the Army's [requirements concerning] compatibility."

Because of the requirement in Federal procurement for maximum practical competition, agency decisions to procure sole-source must be adequately justified and are subject to close scrutiny. Precision Dynamics Corporation, 54 Comp. Gen. 1114 (1975), 75-1 CPD 402. We have recognized that there are certain circumstances under which a sole-source procurement is justified--such as where the Government's legitimate needs could be satisfied only by items or services which are unique; where time is of the essence and only one known source can meet the Government's needs within the required time frame; where data is unavailable for competitive procurement; or where it is necessary that the desired item manufactured by one source be compatible and interchangeable with existing equipment. Environmental Protection Agency sole-source procurements, 54 Comp. Gen. 58 (1974), 74-2 CPD 59.

The protester has the burden of affirmatively proving its case. Reliable Maintenance Service, Inc.--request for reconsideration, B-185103, May 24, 1976, 76-1 CPD 337.

While the protester generally contends that it manufactures equipment which will satisfy the Government's legitimate needs, the protester has not submitted descriptive literature or other data to substantiate its assertions. Under the circumstances, it is our view that the protester has not met the burden of proof.

Accordingly, since there has been no showing that the features required were unreasonable or do not reflect the minimum needs of the agency, the protest is denied.

A handwritten signature in cursive script, reading "Milton J. Aroskar".

For the Comptroller General
of the United States