

C Saun
PL II

17451



DECISION

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

[Protest of Purchase Orders Issuance on Sole-Source Basis]

FILE: B-200350

DATE: March 18, 1981

MATTER OF: Security Assistance Forces
& Equipment OHG

DIGEST:

GAO will question sole-source small purchase only when it can be shown that contracting officer acted without reasonable basis.

Security Assistance Forces & Equipment OHG (SAFE) protests the issuance on sole-source bases of four purchase orders, nos. DAJA76-80-M-4224, -4160, -4613, and -4602, by the Frankfurt Area Contracting Office, U.S. Army Contracting Agency, Europe (USACAE), for the repair and maintenance of building alarm systems. SAFE contends that it should have been given the opportunity to furnish quotations for the work because it is on a bidders mailing list maintained by the contracting activity to receive solicitations for these types of services.

The protest is denied in part and dismissed in part.

We first point out that the procurements were conducted under the small purchase procedures set out in Defense Acquisition Regulation (DAR) Section III, Part 6 (1976). Procurements under those procedures are exempted from the use of bidders mailing lists. DAR § 2-205.1(a).

With respect to the propriety of the issuance of the purchase orders on sole-source bases, we recognize that reasonable competition must be obtained in effecting small purchases. DAR § 3-604. However, we also recognize that the circumstances may be appropriate for sole-source purchases, i.e., purchases without generating competition; in non-small purchase

~~016086~~

114686

procurements, where competition must be maximized (see 10 U.S.C. § 2304(a) and (g), § 2305 (1976)), we will not object to a sole-source award unless it is shown that the contracting officer acted without a reasonable basis. See Systems Group Associates, Inc., B-195392, January 17, 1980, 80-1 CPD 56.

Purchase order M-4224 was for repair of alarm systems which had been put out of service by an electrical storm. Repair was considered urgent because of the possibility of theft of stamps and cash kept on the premises. The order was issued without competition to Telefonbau & Normalzeit Lehner & Co. (T&N), because the contracting officer concluded that since T&N had installed the systems originally the firm would be most familiar with them; T&N maintained a repair service with adequate spare parts; and the firm had a branch office located near the buildings affected.

While the existence of an emergency does not necessarily require a sole-source procurement, such a procurement is justified where the Government's requirements are urgent and the contracting officer acted reasonably in awarding the contract without competition. See KHI, Inc., B-198610, June 30, 1980, 80-1 CPD 449; T M Systems, Inc., B-196170, April 8, 1980, 80-1 CPD 261. SAFE proffers no evidence to show that the contracting officer acted unreasonably in this situation.

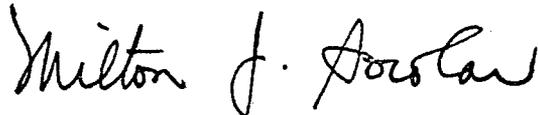
Purchase orders M-4160 and -4163 were for maintenance services to building alarm systems, and were also issued without competition to T&N. USACAE contends that the sole-source actions were proper because the contracting officer reasonably concluded that there were no other qualified sources of supply. USACAE advises that T&N is the original installer of the 15 year old alarm systems, and thus was thought to have access to the structural plans and any necessary repair parts. The contracting officer states that she knew of no other firm with the technical and supply capability necessary to complete the job within the required time limits.

Where the contracting agency justifies a sole-source procurement on the basis that only one source of supply

can meet its requirements, the protester must meet the heavy burden of presenting evidence which shows that such action is arbitrary, capricious and an abuse of discretion. Allen and Vickers, Inc., 54 Comp. Gen. 1100 (1975), 75-1 CPD 399; Power Testing, Incorporated, B-197647, July 11, 1980, 80-2 CPD 26. Again, SAFE has presented no evidence indicating that the contracting officer did not act reasonably, and therefore we must conclude that the issuance of these two orders was not improper.

Finally, purchase order M-4602, issued to Johnson Controls for the maintenance of an alarm system, was canceled after it was discovered that the work involved was already covered under an existing contract. Accordingly, the protest on that matter is moot and is dismissed. I. Alper Company, B-196598, March 10, 1980, 80-1 CPD 186; United Security, Inc., B-194867, June 21, 1979, 79-1 CPD 445.

The protest is denied in part and dismissed in part.



Acting Comptroller General
of the United States