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DECISION



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

FILE: B-211152

DATE: August 30, 1983

MATTER OF: TeQcom Inc.

DIGEST:

A proposed sole-source award for spare parts for equipment previously procured on a sole-source basis is unobjectionable because the protester has not shown it could satisfy the agency's needs.

TeQcom Inc. (TeQcom) protests the proposed sole-source contract award to C.R. International (CRI) by the Defense Supply Service-Washington (DSS-W) for crypto-reset units (CRU) and related equipment for use in field vans.

We deny the protest.

Initially, DSS-W decided to negotiate sole-source with TeQcom and requested that TeQcom submit a proposal. TeQcom directed DSS-W to contact TeQcom's representative, CRI. Subsequent meetings with CRI and other vendors whose equipment would interface in the vans were conducted. These meetings clarified the Government's needs from the standpoint of equipment compatibility in the vans and new technical requirements. DSS-W found that the TeQcom equipment proffered by CRI to be inadequate. CRI then submitted its own proposal, apparently based on equipment manufactured by another firm, which met Government requirements.

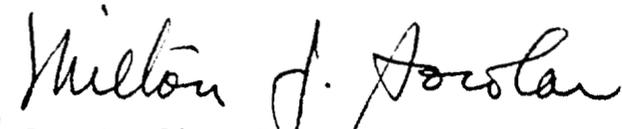
Shortly thereafter, TeQcom advised DSS-W that TeQcom had instituted legal action against CRI to restrict the sale of TeQcom CRU's, that CRI was no longer TeQcom's representative, and that a meeting should be held for TeQcom to respond to the new Government requirements. The requested meeting was not held because the TeQcom salesperson was under suspension from another defense agency for a direct conflict of interest. After obtaining from CRI an affidavit that its CRU was not a TeQcom device and an indemnification from liability, DSS-W awarded a contract to CRI in September 1982.

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TeQcom did not protest the award. However, TeQcom requested and received documents from DSS-W on information relating to the CRU's and the September contract award to CRI. This process took several months because of DSS-W concerns about the pending litigation. In March 1983, DSS-W decided to procure from CRI additional CRU's and related equipment on a sole-source basis as spare parts to the equipment delivered under the September 1982 contract. It is this procurement action that TeQcom protests.

TeQcom essentially concedes that the March 1983 procurement is supportable because of the CRI unit's compatibility with the van configuration and that unit's meeting Government technical requirements developed with CRI prior to the September 1982 award after the TeQcom unit was determined to be technically unacceptable. The gravamen of the protest is that the agency's actions improperly dictated this sole-source procurement by ignoring TeQcom's constant attempts to qualify as a viable source by failing to provide TeQcom an opportunity to respond to Government needs negotiated only with CRI.

It is clear that the agency was cautious in its dealings with TeQcom from just prior to the September 1982 award and continuing through TeQcom's document requests over the next several months. This was attributable to the pending litigation against its proposed and eventual contractor and the apparent conflict of interest of TeQcom's salesperson. We cannot conclude that such concerns were unwarranted in the circumstances. While it appears that the protester was not provided an opportunity to respond to the eventual Government requirements, through this protest and the receipt of agency documents TeQcom is or should be aware of the deficiencies in its CRU. However, other than general allegations that it could have provided competitive equipment, TeQcom has not shown it is capable of meeting the particular Government needs required here. Therefore, we cannot object to the proposed sole-source award covering spare parts for CRI's units. However, to the extent the agency may continue to buy these items for other than spare parts purposes, we expect that TeQcom and any other possible suppliers will be given the opportunity to respond to Government needs.

for 
Comptroller General
of the United States