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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Aerospace Engineering and Support, Inc.

File: B-222834

Date: July 7, 1986

DIGEST

Agency decision to award a sole-source contract to the only known qualified source is proper where agency has neither the data needed to conduct a competitive procurement nor sufficient time to qualify a new source.

DECISION

Aerospace Engineering and Support, Inc. (Aerospace), protests a sole-source contract award for liquid cooler test sets to Boeing Aerospace Company (Boeing) under Department of the Air Force request for proposals (RFP) No. F42600-86-R-0215. Aerospace asserts that the sole-source award to Boeing is improper because Aerospace is capable of manufacturing the test sets within the required timeframe.

We deny the protest.

A liquid cooler test set is a portable item of ground maintenance equipment that checks the liquid cooler system at missile launch facilities; in this case, the sets will be used at sites for the Minuteman Intercontinental Ballistic Missile System (Minuteman). Boeing previously provided the Air Force with configuration-three test sets and also modified already-acquired configuration-three sets to configuration-four sets. The present solicitation sought to procure configuration-four test sets that were newly manufactured with state-of-the-art design and materials. The RFP also requested data to be used in the future to procure the test sets on a competitive basis.

In November of 1985, the Air Force published notice in the Commerce Business Daily of its intent to negotiate a sole-source contract with Boeing, the only known responsible source. The RFP that was prepared, however, designated the procurement as unrestricted and, as a result, Aerospace joined Boeing in submitting proposals. Because Aerospace was not an approved source, the contracting officer submitted the Aerospace proposal to government engineering personnel for

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review. The reviewing official determined that Aerospace could not produce the test set because the Air Force did not own the data to a number of test-set parts. The reviewing official also noted that the test sets were urgently needed so that, even if Aerospace could manufacture the test sets, there was not sufficient time to qualify the firm. After the protester was notified of the Air Force decision to reject its proposal, Aerospace submitted its protest to this Office.

Aerospace asserts that it was improper for the Air Force to award the contract on a sole-source basis. Aerospace does not dispute that the test sets are urgently needed, but contends that it is capable of producing the test sets within the required timeframe. Aerospace also contends that the allegedly nonexistent data is not necessary to produce the test sets, submitting that the parts involved can be identified by commercial part number or reverse-engineered from an existing test set. Finally, Aerospace asserts that it will take no longer than a few weeks for the Air Force to qualify its test set.

Under the Competition in Contracting Act of 1984 (CICA), an agency may use noncompetitive procedures to procure goods or services where the agency's needs are of such an unusual and compelling urgency that the government would be seriously injured if the agency is not permitted to limit the number of sources from which it solicits bids or proposals. 10 U.S.C. § 2304(c)(2) (Supp. II 1984). This authority, however, is limited by the CICA provisions at 10 U.S.C. § 2304(e), which require agencies to request offers from as many potential sources as practicable. Given these standards, a procuring agency, in order to justify award of a sole-source contract, must establish that it reasonably believed that there was only one contractor that could meet its needs in the required timeframe. Data Transformation Corp., B-220581, Jan. 16, 1986, 86-1 C.P.D. ¶ 55. We will object to such an award only where the agency's decision lacks a reasonable basis. See WSI Corp., B-220025, Dec. 4, 1985, 85-2 C.P.D. ¶ 626.

We do not find the award to Boeing legally objectionable. As stated above, before the procurement was issued, Air Force engineering personnel reviewed the available data for the test sets and the government's needs and found that the Air Force did not possess data for all parts of the sets, which were urgently needed. In this regard, the Air Force reports that its inventory of test sets was depleted due to an unanticipated increase in operational requirements caused by an increased workload and new personnel, and that the lack of a sufficient number of test sets was causing work stoppages that threatened Minuteman capability and national security.

The Air Force further submits that it did not have the time or the data to qualify Aerospace even if sufficient data were available. According to the agency, it would take from 9 to 12 months and a cost to the government of approximately \$400,000 to qualify a unit and a contractor's facility. Finally, the Air Force notes that it has requested repro- curement data as part of the solicitation so that future solicitations can be issued on a competitive basis.

We have recognized that a proper basis for a sole-source award is where adequate data is not available to an agency to enable it to conduct a competitive procurement within the time available. See Microcom Corporation, B-218296, July 3, 1985, 85-2 C.P.D. ¶ 23. Aerospace's disagreement with the Air Force with respect to whether the firm can produce the test sets without the data the Air Force believes is necessary, as well as Aerospace's suggestion that the Air Force ought to be able to qualify a new test set in a few weeks, rather than in the months the agency says it would need to qualify a first-time producer and its product, clearly is insufficient to establish that the Air Force's decisions in this case are unreasonable. See WSI Corp., B-220025, supra. The record on Aerospace's protest provides no legal basis for our Office to object to the agency's judgment in these respects.

The protest is denied.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel