

DECISION



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

60277

97620

FILE: 184241

DATE: December 9, 1975

MATTER OF: Techplan Corporation

DIGEST:

Decision to award contract for technical services to only source agency considered qualified was justified since it was essential to have continuity of work assignments by only firm with a high degree of expertise in order to facilitate a quick response in a highly specialized area of work and other firms could not demonstrate sufficient technical qualifications to do work.

Techplan Corporation (Techplan) has protested the proposed contract award to Systems Engineering Associates Corporation (SEACOR) for an indefinite quantity of engineering and technical services under request for proposals N00140-75-R-0388, issued by the Naval Regional Procurement Office, Philadelphia, Pennsylvania.

Essentially, Techplan believes that adequate competition was neither sought nor accepted by the Navy. Initially, the protester points out that even though the procurement office had given assurance that it would be placed on the bidders' list for the services involved, the solicitation was issued on a sole source basis and that Techplan was permitted to submit a proposal only upon its subsequent insistence. However, it is apparent from the record that in October 1974 Techplan expressed an interest in performing services covered by the subject solicitation which previously had been procured on a sole source basis. The firm was advised by the small business specialist that the current requirement was in the preliminary stage of the procurement cycle and that a copy of the solicitation would be furnished when issued. The solicitation, scheduled for issuance on March 5, 1975, was publicized in the Commerce Business Daily on March 3, 1975, on which date Techplan telephonically requested a copy, as promised by the small business specialist. On March 6 copies of the solicitation became available and one was furnished to Techplan. In our opinion, issuance of the solicitation as a sole source procurement does not conflict, as the protester contends, with the advice previously given to Techplan that a copy would be made available to it when issued. While solicitations must be made available upon request, Armed Services Procurement Regulation (ASPR) 1-1002.1 (1975 ed.), competition may be restricted if warranted by the Government's requirements. ASPR 3-210.2(i) (1975 ed.)

The record shows that notwithstanding the sole source solicitation, Techplan was permitted to submit an offer and was considered for award, but the firm was rejected as technically unqualified to perform the work. The solicitation anticipated a Labor Hour Contract for specified categories of services on a quick response basis and provided the following description of the anticipated work:

"SECTION F - DESCRIPTION/SPECIFICATIONS

Provide Technical Services as ordered by the Naval Regional Procurement Office, Philadelphia Naval Base, Philadelphia, PA 19112. Services to be performed are in the area of development and implementation of integrated test plans for DLG6/DLGN Class Ships. The services ordered will be technical services required by the Test Development Director, Naval Shipyard, Philadelphia in the development of interface relationships with test and evaluation activities. Services will also be required in the area of development and in-process review of manuals, plans, process instructions and reports for Weapons/Electronic Systems work packages for specified ships undergoing overhaul, modernization or construction at the Philadelphia Naval Shipyard. Additionally, services to prepare/review management plans, integrate test plans and test procedures will also be required. The development of interface relationships with test evaluation activities will also be required."

The Navy proceeded on a sole source basis since it contemplated the continuance of work assignments begun by SEACOR under prior contracts, as a result of which SEACOR had acquired highly specialized expertise in the development of test documentation involving the DLG-6 and DLGN-38 Class Ships. The Navy believed the time which would be required to develop additional sources would cause an untimely and costly delay in ship delivery. SEACOR is considered uniquely qualified to perform the required work on a quick response basis to the exclusion of all other companies because of its experience in all types of Naval Ordnance and with Talos, Terrier, Tartar missile systems, Naval Tactical Data Systems, anti-submarine 3-D air search

radars communications, and sonar systems. By virtue of its combat systems test experience obtained in a naval shipyard and a private shipbuilding yard and aboard guided missile ships, Navy believed that SEACOR was able to provide experience that was not available elsewhere.

After evaluating Techplan's proposal, the Navy determined that the firm was technically unqualified and advised Techplan of its reasons for this determination. The Navy determined that Techplan lacked experience with "MK 116 4BFCS and AN/SPS-55 surface Search Radar." The Navy reports that during the period covered by the subject solicitation services will be needed for a modernization program which is drawing to a close (DLG-6 Class Ships) and for a new construction program (DLGN-38 Class Ships). Few, if any, services were anticipated for overhaul and repair programs, for which Techplan's proposal showed the most background and experience.

Although in rejecting Techplan's proposal Navy stated that a revised proposal would not be considered, the firm subsequently was told that the contracting officer would consider any new or additional information or evidence concerning its qualifications to perform the services. The record shows that the Navy's requiring activity has considered additional information subsequently submitted by Techplan, but has reaffirmed its prior sole source determination. In brief, the Navy believes that Techplan failed to identify experience in work areas which could account for 25 percent of the high skill effort where direct experience with the specific equipment and its interfaces on DLGN Class Ships is essential to effective performance. The Navy points out that only one of the resumes originally submitted indicated directly relevant experience for services on DLGN-38 Class Ships and that the experience evidenced in subsequent resumes is limited to equipment arrangements, evaluation and finding and is not relevant to the types of services needed by the Combat Systems Office. Moreover, the firm's two prior contracts with the same requiring activity involved in this case were not considered sufficiently relevant since performance in one area was not entirely satisfactory and the experience derived from performance in the other case, while satisfactory, is not helpful for tasks involving the DLGN-38 Class Ships.


On the other hand, Techplan does not agree that its questionable performance on one contract should be used as indicia of its technical competence for the instant requirement since the contract's dollar value was only \$1,489 and performance covered only a 2-week period during which its principal engineer was absent. It is argued that other

satisfactory work of greater magnitude has been performed by Techplan which the Navy has not considered. Moreover, Techplan objects to the evaluation of its qualifications since it believes the scope of the work has changed subsequent to submission of its proposal. In this connection, the Navy's report indicates that there are three ships in the DLGN-38 Class and one ship in the DLG Class which will require services under the solicitation. While the solicitation did not indicate the anticipated mix of the ships involved, Techplan has not indicated in its rebuttal any additional experience and qualifications directly relevant to the DLGN-38 Class. Moreover, the need for such information should have been apparent to Techplan at the time it was preparing its proposal and it could have sought it at that time.

As a general rule, a noncompetitive award is justified where time is of the essence and only one known source can meet the Government's needs within the required time frame. Hughes Aircraft Company, 53 Comp. Gen. 670 (1974), 74-1 CPD 137. In this case, the Navy requires contract or services on a quick response basis and it believes that SEACOR is the only firm which possesses the highly specialized expertise necessary to this requirement. In our own opinion, the record shows that the Navy has performed a reasonable analysis of Techplan's qualifications and we find no basis for concluding that the sole source procurement in this case is arbitrary.

Finally, we note that Techplan argues for several reasons that the Navy attempted to confuse the sole source nature of this procurement and that the Navy improperly resisted its requests for procurement material requested under the Freedom of Information Act. Since we have concluded that the determination to procure on a sole source basis is not arbitrary and since Techplan was furnished the relevant information in connection with its protest, the above arguments are considered moot and need not be resolved in this decision.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States