



**Comptroller General  
of the United States**

Washington, D.C. 20548

337276

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August 27, 1993

The Honorable Alfonse M. D'Amato  
United States Senate

Dear Senator D'Amato:

You have asked whether the Navy's award of a sole-source contract for development of the F/A-18E/F aircraft violated the Competition in Contracting Act of 1984 (CICA). The contract was awarded to McDonnell Aircraft Company on July 20, 1992.

The decision to proceed with further development of the F/A-18 was based on the Navy's determination that it needed an upgraded carrier based multi-role fighter that could perform both air-to-air and air-to-ground missions. The Navy concluded that this need could most appropriately be met by follow-on development of its only existing multi-role aircraft, the F/A-18.

As an initial matter, it should be noted that in our report of today, NAVAL AVIATION: Consider All Alternatives Before Proceeding With The F/A-18E/F, GAO/NSIAD-93-144, copy enclosed, we question the justification for the Navy's determination that it needed such an aircraft. However, the issue you raise is whether the Navy violated the CICA requirement for obtaining full and open competition when it awarded a sole-source contract to McDonnell Aircraft for such an aircraft.

Although CICA generally requires that agencies procure their needs through full and open competition, it recognizes an exception to this requirement where an agency reasonably determines that there is only one type of property or services that will satisfy the needs of the agency and that the property or services are available from only one responsible source. 10 U.S.C. § 2304(c)(1). Contracts for the continued development of a major system fall within this exception where award to another source would result in either (i) the substantial duplication of costs that would not be expected to be recovered through competition, or (ii) unacceptable delays in fulfilling the agency's needs. 10 U.S.C. § 2304(d)(1)(B).


With regard to the costs needed to develop another source for the aircraft, the Navy's justification and approval document, required by CICA to support the sole-source award, states that McDonnell has been the sole designer, developer, weapon system integrator, and producer of the F/A-18 for over 15 years. As a result, McDonnell owns much of the technical data needed to develop any F/A-18 derivative. The J&A states that McDonnell has an established supplier base and composite material and manufacturing processes that are not expected to change substantially for the E/F. On this basis, the J&A concludes that the additional cost to develop another source to the level necessary to provide an upgrade of the F/A-18 aircraft would be prohibitive and could not be recovered through competition.

The Navy's J&A also concludes that the time needed to develop a second source would result in an undue delay in meeting established milestones. At the time the determination was made, the aircraft the F/A-18E/F was then intended to replace were expected to start reaching the end of their fatigue lives in the mid-1990s. The J&A states that it would be time-consuming to acquire the full F/A-18 technical disclosure package and estimates that the time needed to develop a second source would result in an unacceptable delay of at least 2 years.

We have no reason to disagree with the Navy's determination that the requirements for a sole source award of the contract for the development of the F/A-18E/F aircraft have been met. Admittedly, there are significant differences between the F/A-18C/D and the E/F, such as the E/F version will have a longer fuselage, more powerful engine, larger wing and tail surfaces, and expanded use of composites. However, there are other fundamental respects in which the two aircraft will have much in common. For instance, much of the avionics and software currently used in the F/A-18C/D will be retained. The engine being developed for the F/A-18E/F under a separate contract is also a derivative of the engine currently used in the C/D.

We would be happy to meet with you or members of your staff to discuss our views on this matter.

Sincerely yours,

*for*   
Comptroller General  
of the United States

Enclosure

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DIGEST

In response to congressional inquiry, member is advised that award of sole-source contract to McDonnell Aircraft Company for development of F/A-18E/F aircraft was permissible under § 2304(c)(1) of Competition in Contracting Act. The Navy justification and approval concludes that significant expense of developing second source could not be recovered through competition and that undue delay would result in meeting needed milestone. CICA allows use of sole-source authority for followon contracts in these circumstances.