



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

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Attention: John J. Reed, Esq.

Gentlemen:

This is in reply to your letter of May 31, 1973, on behalf of EDMAC Associates Inc. (EDMAC) in connection with its protest against the proposed sole-source award by Naval Air Systems Command of a contract to the General Dynamics Corporation for the AN/ARR-72 Sonobuoy Receiver Systems.

The AN/ARR-72 Sonobuoy Receiver is for use in the F3-C aircraft. Prior procurement of the AN/ARR-72 was made directly by the airframe manufacturer of the F3-C, Lockheed California Company (Lockheed), from General Dynamics, the developer and only producer of the AN/ARR-72. The present procurement is the first direct purchase by the Navy of the AN/ARR-72.

The Navy has determined that the only manner of procurement which will assure timely delivery to Lockheed of the necessary quantities of reliable AN/ARR-72 equipment is to make award to General Dynamics on a sole-source basis. The Navy's decision is based on the lack of availability of a complete technical data and drawing package and belief that the reverse-engineering of a model to performance specifications would be too risky in light of the need to coordinate the AN/ARR-72 delivery with the programmed installation schedule of the F3-C.

EDMAC contends that in a similar procurement for the later and more complex AN/ARR-75 Sonobuoy Receiver, which had been produced only by EDMAC, a determination was made by Navy to allow

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competition by furnishing a model which could be reverse-engineered. EDMAC states that if the procurement for the AN/ARR-75, calling for a greater number of units with a shorter delivery schedule, could be reverse-engineered, the procurement for the AN/ARR-72 should be handled in a similar manner.

Our Office has made an independent inquiry as to the relative complexity of the two receivers and has ascertained that while the AN/ARR-75 is a later generation of the receiver, the AN/ARR-72 is a much larger receiver with more components which, because of its size, would take longer to reverse-engineer than the AN/ARR-75. On these facts, a logical basis seemed to have existed for the different handling of the two procurements.

EDMAC also contends that it has on its staff numerous personnel who worked for General Dynamics when the AN/ARR-72 was being developed and, therefore, it is well acquainted with the design and construction of the AN/ARR-72. The Navy has not disputed the ability of EDMAC to perform the contract but only that the risk is too great in view of the tight delivery schedule. It has been the policy of our Office not to question a contracting officer's decision to make a sole-source award unless it is clear from the record before our Office that he acted in an arbitrary or capricious manner in abuse of that discretion. B-174968, December 7, 1972. On the record, there appears to be an adequate basis for the Navy's determination not to assume this risk and our Office will not object to the proposed award to General Dynamics.

A second avenue for competition suggested by you is that the procurement be divided with the first half awarded to General Dynamics and the second half to EDMAC. In this manner, you state the problem of the risk of the delivery schedule would be solved as General Dynamics could deliver the first six items, thus allowing an additional six months lead time for EDMAC.

Our Office requested the views of the Navy regarding this proposal and in a supplemental report of June 25, 1973, was advised that it did not regard this plan as feasible or economical. The Navy states that if the second half of the procurement were competed, it would have to provide all qualified companies, which includes firms other than EDMAC, an opportunity to submit proposals. Also, by having two companies in production, there would be duplicate tooling and start-up costs. Furthermore, the Navy states that it believes if the contractor producing the latter portion of the procurement encounters difficulties, there is a

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possibility that the notification might come too late for the agency to procure the additional units to coincide with the F3-C delivery schedule. Based on the above, our Office believes the Navy has provided sufficient reasons for not dividing the program. However, we feel that the feasibility of opening the AN/ARR-72 program to competitive procurements should be carefully considered by the Navy. In a supplemental report to our Office, the Navy stated:

* * *We fully reaffirm that view of EDNAC's capability, but must point out that the same would be true of countless other firms. Given the time required for reverse-engineering and the capability to perform it, any number of firms experienced in this type of radio receiver work could conceivably produce the ARR-72.

Therefore, we are bringing this matter to the attention of the Secretary of the Navy by separate letter of today, copy enclosed, recommending that where future needs for the AN/ARR-72 arise, that sufficient lead time be allowed to permit qualified firms to compete on the basis that a model would be furnished for reverse-engineering purposes.

Sincerely yours,

E. H. Morse, Jr.

For the Comptroller General
of the United States