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DECISION



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

10,360

FILE: B-194445

DATE: June 5, 1979

MATTER OF: Aero Corporation

DIGEST:

[Protest alleging that procuring activity will make improper sole-source award] ^{is premature} ^{& disallowed} where program is only in initial planning phase and procurement action has not been initiated.

CNG 02256

Aero Corporation (Aero) protests what it believes will become a sole-source procurement to perform the C-130 aircraft Service Life Extension Program (SLEP) to support requirements of the Naval Air Systems Command (Navy). According to Aero, it and possibly other aerospace companies are qualified to perform the anticipated work. Consequently, Aero believes that award on a sole-source basis would be improper. AGC 00455

In response, the Navy states that it intends to procure its requirements for the restoration and replacement of C-130 aircraft structure under SLEP in accord with applicable procurement law, but that at present, the SLEP procurement is only in the planning phase. Neither a procurement plan (as required under Defense Acquisition Regulation (DAR) 1-2100), nor a solicitation, has been completed. Moreover, the Navy says, it has not decided what procurement method should be used.

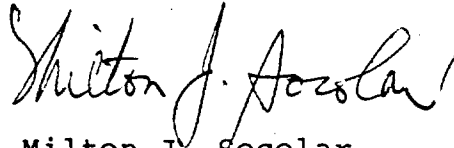
By way of rebuttal, Aero finds it significant that the Navy has not flatly denied that it is considering a sole-source award, arguing that the "Navy's careful avoidance of this critical issue is tantamount to an admission that a sole-source award [may be] very likely."

Even if Aero's expectation of an eventual sole-source procurement proves correct, the Navy does not act improperly by considering whether a sole-source award would be appropriate. The Navy would act improperly only

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if it were to procure on a sole-source basis, without adequate justification. Any such action, of course, could be protested promptly upon publication in the Commerce Business Daily of the agency's decision to procure on a sole-source basis. Defense Acquisition Regulation (DAR) §1-1003 (1976 ed.). However, a protest which merely anticipates an improper sole-source procurement is speculative.

The protest is premature and is dismissed.



Milton J. Socolar
General Counsel