

12300 W. Thompson  
Proc I

**DECISION**



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

FILE: B-195237

DATE: December 14, 1979

MATTER OF: Engineered Systems, Inc.

D 3488

**DIGEST:**

*Protestant*

[Protest against proposed sole-source award] of contract is denied where agency justified award on grounds that proposed awardee is only contractor presently capable of performing requirement and that agency presently has insufficient data to conduct competitive procurement, and protester has not shown that agency justification is unreasonable.

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Engineered Systems, Inc. (ESI), has protested the proposed award, by the United States Air Force (Air Force), of a contract to E-Systems, Inc. (E-Systems) on a sole-source basis. The contract is for in-the-field technical and maintenance support for the Combat Sent RC-135U aircraft system and associated ground support equipment at Offutt Air Force Base, Nebraska. ESI contends that the Air Force does not have adequate justification for a sole-source award.

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For the following reasons, the protest is denied.

The Air Force has justified the proposed sole-source award on two major bases. First, the Air Force contends that E-Systems is the only contractor capable of performing the contract. Second, the Air Force states that it does not presently have adequate data to conduct a competitive procurement.

The standard of review to be applied, in determining the propriety of a sole-source procurement is

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reasonableness. Bingham Ltd., B-189306, October 4, 1977, 77-2 CPD 263. Unless the protester can affirmatively prove that the contracting agency acted without a reasonable basis, we will not question a sole-source award. Pioneer Parachute Co., Inc., B-190798, B-191007, June 13, 1978, 78-1 CPD 431. We have held that where only one source can satisfy Government needs, contracting officials are not required to modify or compromise procurement standards to obtain competition. Engineering Research, Incorporated, September 12, 1974, 74-2 CPD 161. We have also held that a sole-source award is justified where adequate data is not available to conduct a competitive procurement within the necessary timeframe. Pioneer Parachute Co., supra, Engineering Research, Incorporated, supra.

The Combat Sent program involves two RC-135U aircraft which have been modified to perform scientific and technical electronic intelligence collection. The aircraft is a mix of off-the-shelf and specially designed electronic subsystems. Due to the constantly changing nature of intelligence gathering, the aircraft is continuously modified. E-Systems has been and will continue to be the aircraft modification and subsystem integration contractor. ESI held the field technical and maintenance contract from 1972 through 1975. E-Systems has held the contract since then. The requirement was procured competitively through fiscal year 1977. That contract had options for fiscal years 1978 and 1979, which were exercised.

According to the Air Force, the configuration of the aircraft was relatively stable during the time that ESI held the field technical and maintenance contract. Since then, however, substantial modifications have been made by E-Systems. Due to time and funding constraints, drawings and engineering data relating to these modifications have been kept to an absolute minimum. This limited data is augmented by E-Systems' specifications, manufacturing processes and engineering notes, which are not owned by the Government and therefore are

not available to any other contractor. This information and the engineering expertise which results from having designed and installed many of the modifications and having integrated all of them is unique to E-Systems.

The Air Force argues that the field service personnel of E-Systems, as part of the same company, has instant access to this unique information and expertise when problems arise in the field, thus permitting the very rapid response time required for successful performance of the mission of the Combat Sent program. The Air Force argues that for any other contractor to conceivably perform the field maintenance contract it would also require engineering support from E-Systems. This would require a separate contract for that service, for which authorization and funding do not presently exist, since E-Systems is not required to furnish the service under its aircraft modification contract. Even if such a contract were available, the Air Force contends that the potential problems inherent in having different contractors for aircraft modification and field maintenance could impair the performance of the Combat Sent Mission.

ESI attacks the Air Force's justifications on several grounds. ESI argues that the statement of work of the proposed contract is not substantially different from the statement of work of its contracts of 1972 through 1975. ESI has not directly challenged the Air Force's assertion that it lacks much of the technical data to conduct a competitive procurement. Rather, ESI takes the position that detailed technical data is not required because ESI is capable of performing contracts like the proposed contract, and performed this one in the past.

The Air Force states that the statement of work does not reflect many of the subsystem modifications that have been installed by E-Systems since ESI held the maintenance contract. The Air

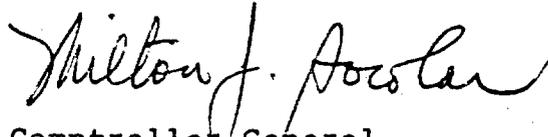
Force has provided an extensive list of these modifications. While ESI has argued that some of the changes were not substantial, and some are not required to be maintained under the proposed contract, it has not disputed a significant number of the changes. It is our opinion that the record supports the Air Force's assertion that the present aircraft configuration is substantially different from the configuration during the time that ESI held the field maintenance contract.

While, as ESI argues, E-Systems is not the manufacturer for a number of the subsystems that were changed, E-Systems has been responsible for manufacturing some of the subsystems, for installing and maintaining the others, and for integrating the total system. It is the data and expertise derived from performance of that requirement that is not transferable to another contractor and that the Air Force feels is essential to the effective performance of the Combat Sent Mission. While ESI generally may be able to perform complex maintenance functions with little technical data, and may be able to provide rapid engineering support to its field personnel, its general performance ability and experience are not at issue here.

We think that the Air Force has adequately supported its contention that it does not presently have sufficient data to conduct a competitive procurement, and that E-Systems is presently the only contractor capable of performing the requirement, because of its possession of unique engineering data and expertise concerning this requirement.

However, we recommend that the Air Force consider the feasibility of acquiring the data necessary to conduct competitive procurements in the future. If such data is acquired and a competitive data package can be assembled,

any options available to the Government under the 1980 fiscal year contract should not be exercised and the requirement should be procured competitively for the next fiscal year.

A handwritten signature in cursive script, reading "Milton J. Fowler".

For The Comptroller General  
of the United States