

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

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FILE: B-210940**DATE:** August 29, 1983**MATTER OF:** Williams & Lane, Inc.**DIGEST:**

Sole-source negotiated procurement was justified since agency determination to standardize equipment has not been shown to be without reasonable basis.

Williams & Lane, Inc. (Williams & Lane), protests the proposed Department of the Navy sole-source procurement for the Department of the Air Force (Air Force) of two Transamerica Delaval (Transamerica) DSR V-12 5000KW diesel engine generator units with auxiliaries under request for proposals No. N62927-83-R-3503. Williams & Lane contends the procurement should be formally advertised rather than negotiated.

We deny the protest.

The Acting Assistant Secretary of the Air Force (Research, Development and Logistics) authorized the negotiation of the procurement in an appropriate Determination and Findings on the basis of 10 U.S.C. § 2304(a)(13) (1976), which permits negotiation where:

"* * * the purchase or contract is for equipment that * * * [is] technical equipment whose standardization and the interchangeability of whose parts are necessary in the public interest and whose procurement by negotiation is necessary to assure that standardization and interchangeability."

The generator units are being procured as part of Phase II of the powerplant upgrade at Clark Air Force Base in the Philippines. It is because the same Transamerica units had been previously purchased under Phase I contract No. N62922-81-C-3566 that the determination was made to purchase the Transamerica units on a sole-source, negotiated basis. The Acting Assistant Secretary found such a purchase would be in the public interest because it would affect the war

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readiness of the United States inasmuch as other suppliers, due to the highly technical nature of the unit, would produce equipment having such variations in physical characteristics of parts and performance (notwithstanding detailed specifications and rigid inspection) that standardization and interchangeability of parts would be precluded. It was determined that when replacement or repair of equipment/parts manufactured by one firm becomes necessary, use of other firms' apparently similar equipment/parts is generally impossible. Accordingly, because formal advertising might result in the purchase of other than the Transamerica units and auxiliaries, formal advertising was found to be inappropriate. In summation, it was concluded that standardization of the units and the interchangeability of the parts were necessary to (i) assure the readiness, maintainability, and reliability of the units; (ii) reduce materially the quantity of spare parts required to be carried with a resultant savings in time, manpower, storage space, and costs; and (iii) make possible the interchangeability (through cannibalization) of all parts among pieces of damaged equipment during combat, terrorist activity, or any other emergency.

Williams & Lane points to the fact that the provision found in paragraph 7-2003.38 of the Defense Acquisition Regulation (DAR) (1976 ed.), advising of the possible standardization of the units, was not in the solicitation for the formally advertised procurement for the Phase I generator units. Williams & Lane also believes that a determination to negotiate the Phase II procurement on a sole-source basis cannot be supported under the concept of standardization and interchangeability. First, the contention that the number of spare parts will be reduced through procuring the units on a sole-source basis is questioned in view of the solicitation language that "Equipment furnished * * * shall, to the maximum extent practical, be identical to equipment furnished under contract N62922-81-C-3566." This language, it is argued, negates the intent of DAR paragraph 3-213 (Technical Equipment Requiring Standardization and Interchangeability of Parts)--the DAR paragraph implementing 10 U.S.C. § 2304(a)(13). Also, it is stated, custom-built engines are subject to design modifications and improvements, which manufacturers incorporate into future-built engines. Thus, parts design may be changed negating the concept of standardization. Second, Williams & Lane believes that standardization will not permit cannibalization of parts to any great degree if damage occurs through combat or the like because any such damage would more than likely occur to major unit parts which are not stocked as spare parts. The need for standardization is further questioned in view of

the alleged fact that all previous Clark Air Force Base generator units have been purchased through formal advertisements and have resulted in the procurement of such diverse engine types as those made by Nordberg, Fairbanks Morse Co., Enterprise, and Worthington. Almost all diesel engine power stations, we are advised, are composed of different manufacturers' diesel engine generators, since these are all compatible for electrical parallel service--a compatibility which would also be the case here if the procurement were formally advertised.

Finally, it is the position of Williams & Lane that only the competitive process will provide the best state-of-the-art engines, the lowest prices, and the best fuel-efficient equipment. It is noted that although the contracting agency argues that a sole-source procurement will result in cost savings to the Government, the cost savings that will result from formally advertising would be greater than the usual 8-10 percent value added for the spare parts. Williams & Lane notes that its bid on the Phase I procurement was \$208,483 lower than the Transamerica bid--the award was improperly made to Transamerica (see Williams & Lane, Inc., B-203233, January 8, 1982, 82-1 CPD 21)--and that its units also provided greater fuel efficiency as well as more power output. In conclusion, Williams & Lane believes for the above reasons that the solicitation should be canceled and reissued as a formally advertised procurement.

While, generally, procurement agencies must obtain the maximum competition practicable, there are instances when fulfillment of an agency's minimum needs may result in the imposition of some restriction on competition. See, e.g., Gould, Inc., Advanced Technology Group, B-181448, October 15, 1974, 74-2 CPD 205. One such recognized need is to standardize the equipment in use. Jazco Corp., B-193993, June 12, 1979, 79-1 CPD 411. In this case, the Air Force has determined that its needs require standardization, and we do not believe that the protester has shown that determination to be unreasonable. Julie Research Laboratories, Inc., B-199416, June 16, 1981, 81-1 CPD 493.

First, the units would appear to be appropriately for use "outside of the United States, in theaters of operations * * * or at advanced or detached bases" within the meaning of DAR § 3-213.1(a)(iii). Further, there is a need to provide for the quickest possible repair of the units should they be damaged in any unpeaceful manner and a need to accomplish this through the stocking of a minimum of spare

parts. As regards the failure to insert DAR § 7-2003.38 in the Phase I solicitation, DAR § 3-213.4 provides for such an insertion "when a Department expects that the equipment will be established as standard and that maintenance of such standardization can be secured only by subsequent negotiation." We do not see how this expectation may not possibly arise after the initial solicitation or how a failure to insert the clause may preclude a subsequent negotiation where circumstances warrant.

Second, this procurement does not follow a prior noncompetitive award so that it could be said that the Air Force is engendering a long term sole-source situation. Rather, the restricted specifications for the procurement grew out of the Phase I procurement which was unrestricted and open to competition.

Third, the Williams & Lane rebuttal of the Air Force position is not persuasive. Although it may be true that absolute identicality of the units cannot be achieved because of the discontinuance or obsolescence of some component parts, this in no way establishes that standardization, to the extent it is possible to achieve, is an unreasonable goal. We believe there is a significant difference, and significant difference in impact, between no standardization at all and standardization to the extent possible with only occasional modifications to the original components specified as these become necessary. Further, while Williams & Lane asserts it would be less expensive to purchase the units competitively, cost considerations alone are not controlling. The agency may properly consider additional administrative burdens (such as an increased spare parts inventory) and delays that would result from not standardizing in connection with its operational needs. Julie Research Laboratories, Inc., supra.

The protest is denied.



Acting Comptroller General
of the United States