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**DECISION**



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

**FILE:** B-218292 **DATE:** May 16, 1985  
**MATTER OF:** Computer Resource Technology Coporation

**DIGEST:**

1. Allegation that agency's cancellation of RFQ and award of sole-source contract were improper is denied since agency's determination that only one source was qualified to perform the work within the required timeframe was not unreasonable.
2. Allegation that agency improperly split its total requirements and that small purchase procedures should not have been utilized since overall requirement exceeds the small purchase dollar limitation is without merit. Record shows that agency was not in a position to issue a solicitation for its long-range requirements and, under the circumstances, we do not find the agency's utilization of the small purchase procedures improper.
3. Protest alleging that awardee's employee, who formerly worked with the protester, wrongfully competed with protester and misappropriated trade secrets is essentially a dispute between private parties which is not for consideration under GAO Bid Protest Regulations.

Computer Resource Technology Corporation (CRTC) protests the cancellation of request for quotations (RFQ) No. N60530-85-M-R-RN970 and subsequent sole-source award to Digital Sciences Corporation (DSC) by the Department of the Navy for the development of a contract tracking system to automate the management of the Navy's Computer Aided Engineering and Documentation System (CAEDOS).

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We deny the protest in part and dismiss it in part.

The Navy indicates that since 1981, this requirement was being procured through delivery orders issued under an omnibus support contract and that, during this period, CRTC was subcontracted all of the work. In 1984, the Navy decided, as a policy matter, that it would no longer issue delivery orders for work which was entirely subcontracted and that such work would be competitively awarded to enhance competition and increase small business participation. In the present case, however, the Navy states that the project manager for CRTC had performed substantially all of the programming on the contract tracking system and his unique expertise was considered essential to the timely performance of the work. Accordingly, the Navy states that a sole-source award to CRTC was initially recommended.

The record reflects that an RFQ was nevertheless issued despite what the Navy states was in reality a sole-source procurement. Two quotations were received and the Navy discovered that the project manager for CRTC had now become the president of DSC. Although CRTC had submitted the low quotation, the Navy determined that CRTC could not do the work in the required timeframe without its former project manager. The Navy states that it could not award to DSC under the RFQ since the RFQ required that a contractor have a minimum of 3 years' experience and DSC, as a corporation, only had 2 years' experience. As a consequence, and due to the Navy's belief that participation by CRTC's former project manager was essential, the Navy canceled the RFQ and awarded the requirement to DSC for under \$25,000.

CRTC argues that the cancellation and sole-source award were not justified since CRTC was fully capable of performing the work without its former project manager. CRTC contends that the decision by the Navy's Small Purchase Branch to issue the RFQ demonstrates that this requirement did not qualify for sole-source treatment. Also, CRTC alleges that the small purchase procedures should not have been utilized by the Navy in awarding this contract since the Navy has split its overall requirements which exceed the \$25,000 threshold. Federal Acquisition Regulation, 48 C.F.R. § 13.000 (1984). In addition, CRTC alleges that its former project manager wrongfully competed with CRTC and, upon receiving such information, the Navy should not have contracted with DSC.

In determining the propriety of a sole-source award, the standard this Office applies is one of reasonableness; unless it is shown that the contracting agency's justification for a sole-source award is unreasonable, we will not question the procurement. Stryker Corp., B-208504, Apr. 14, 1983, 83-1 CPD ¶ 404. Where a contracting agency justifies a sole-source award on the basis that only one source can meet its requirement, the complainant must meet the heavy burden of presenting evidence to show that such action is arbitrary, capricious or an abuse of discretion. DANTEC Electronics, Inc., B-213247, Aug. 27, 1984, 84-2 CPD ¶ 224.

The Navy indicates that it considered the services of CRTC's former project manager essential and that given its need for uninterrupted maintenance and development of the contract tracking system program, no other person could meet the agency's needs within the required timeframe. The Navy states that increased user demands have overloaded the capability of the current tracking system and increased unavailability of the CAEDOS system has resulted. The Navy indicates that this has had an adverse impact on the work in progress at every Naval facility at which CAEDOS is operational.

In addition, the Navy states that CRTC's former project manager was responsible for rewriting and revising the contract tracking system program. Additional development, as well as modification of the current program to accommodate new requirements, is still necessary and the Navy contends that it would take months of study before anyone not totally familiar with the project could satisfactorily meet current user demands. The Navy argues that its determination that only CRTC's former project manager could meet the Navy's needs in the required timeframe is reasonable and that, as a result, cancellation of the RFQ and subsequent sole-source award to DSC should not be disturbed.

Although CRTC argues that another employee of the firm was ready and qualified to perform this contract, we cannot conclude that the Navy's determination that only CRTC's former project manager could meet its needs is unreasonable. The Navy determined that the involvement of CRTC's other employee was not substantial and that additional time for study would have been needed by that employee in order to function at the level required. Furthermore, we do not agree with CRTC that the issuance

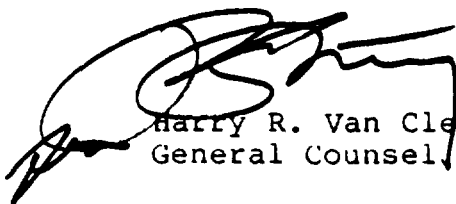
of the RFQ by the Navy's Small Purchase Branch demonstrates that the Navy's ultimate decision to sole source the requirement was not justified. The Navy states that the issuance of the RFQ was a mistake and there is no evidence in the record which contradicts this statement. Due to the critical need for the continued uninterrupted development of the contract tracking program and the unique knowledge possessed by CRTC's former project manager, the Navy determined that a sole-source award to DSC was required. In our view, the Navy has established a reasonable basis for this determination and, accordingly, we cannot find the cancellation of the RFQ and subsequent award to DSC improper.

Also, we find CRTC's contention that the small purchase procedures should not have been utilized to be without merit. CRTC argues that the Navy improperly split its requirements for the contract tracking program and asserts that the total dollar value exceeds the small purchase dollar limitation. We note that although the Navy acknowledges that future development to the contract tracking program is planned and that maintenance is a continuous requirement, the Navy states that it was not in a position to issue a solicitation for its long-range requirements because of the sudden change in Navy policy concerning the issuance of subcontract delivery orders. The Navy states that purchase orders will be issued pending the completion of a competitive package and that it is expected that a competitive procurement will be issued within 1 year. Under these circumstances, we do not find that the Navy acted improperly in utilizing the small purchase procedures.

Finally, CRTC's allegation that its former project manager wrongfully competed with CRTC and that the employee misappropriated trade secrets belonging to CRTC is not for consideration under our Bid Protest Regulations. See Gem Services, Inc., B-217038.2, Feb. 7, 1985, 85-1 CPD ¶ 159. Although CRTC argues that the Navy had knowledge of facts which showed that its former employee wrongfully competed with CRTC and, thus, should not have been awarded to DSC, this allegation has not been proven by CRTC and is denied by DSC. In our view, this allegation, at best, involves a question of improper business practices by DSC and not the government. As such, it is a dispute between private parties which will not be considered by our Office. See Computer Science Corp., B-194286.3, July 3, 1979, 79-2 CPD ¶ 5.

B-218292

The protest is denied in part and dismissed in part.



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General Counsel