



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

B-177552

June 7, 1973

31834

Gadshy & Hannah  
1703 Pennsylvania Avenue, NW.  
Washington, D. C. 20006

Attention: Gene Perry Bond, Esq.  
Craig S. Emberger, Esq.

Gentlemen:

We refer to your letter of January 19, 1973, with enclosures, and prior correspondence, protesting on behalf of the Planning Research Corporation against the cancellation of request for proposals No. N00123-73-1-0527, and the subsequent sole-source award of a contract by the Naval Regional Procurement Office, Los Angeles, California, to the Aerospace Corporation for furnishing technical support services to the Navy Space Systems Activity, El Segundo, California.

For the reasons set forth below, we are unable to question the propriety of the award to Aerospace.

The request for proposals was issued on August 18, 1972, and elicited research and development proposals on a cost-plus-award-fee basis for completing three tasks: (1) overall system engineering and analysis for Satellite Ocean Surveillance System; (2) sensor engineering; and (3) mission data operations. Because of a change in the scope of the work, the Navy determined that the request for proposals as issued was inadequate. It was also determined that only the Aerospace Corporation, a non-profit Federal Contract Research Center sponsored by the Department of the Air Force, could provide the technical support required for execution of the tasks 1 and 2, as revised. On August 25, 1972, NRPOLA advised offerors that the submission of proposals was deferred and on August 31, 1972, NRPOLA formally canceled the original solicitation.

Subsequently, the sole-source award to Aerospace was approved by The Assistant Secretary of the Navy (Research and Development). The decision to award was concurred in by the Department of the Air Force. On December 22, 1972, a determination was made in accordance with paragraph 2-407.8(b)(2) to make the award notwithstanding the protest.

You contend that a sole-source award to Aerospace was unauthorized because the Planning Research Corporation was and is fully capable of

[Protest of Sole-Source Award]

720099 091496

performing the work covered by the award to Aerospace. In addition, you maintain that the Navy's award to Aerospace violates the recently announced Department of Defense policy of precluding Federal Contract Research Centers from performing tasks which could be performed by for-profit companies, citing the Hearings on Federal Contract Research Centers Before the Ad Hoc Subcommittee on Research and Development of the Senate Committee on Armed Services, 92d Cong., 2d Sess., pt. 5, at 3229, 3231-32, 3310-11 (1972) and S. Rept. No. 92-762, 92d Cong., 2d Sess. 99-100 (1972). While this second contention raises a question of procurement policy as opposed to the legal propriety of the award to Aerospace, the underlying considerations are the same. As you recognize, if a sole-source award to Aerospace is justified, there would be no question of a violation of Department of Defense policy relative to the utilization of Federal Contract Research Centers.

A letter dated December 29, 1972, with classified enclosures, from the Deputy Chief of Naval Material (Procurement and Production), reporting on the protest was made available to you for comment. On January 4, 1973, a conference was held in our Office with representatives of the Navy and the Planning Research Corporation. As indicated in your submission of January 19, 1973, the documentation disclosed by the Navy bases the award to Aerospace on the ground that it is the only organization qualified to perform under the revised scope of work. Your submission questions the thoroughness of the Navy's evaluation of the qualifications of the Planning Research Corporation. With respect to the Planning Research Corporation's qualifications, you have submitted substantial documentation testifying to its ability to perform services of the nature covered by our request for proposals.

In our view, the conclusion which you draw from the record - namely, that the Planning Research Corporation is as well qualified as Aerospace to perform the work - is based on the assumption that there has been no change in the scope of work.

During the conference on January 4, 1973, the Navy representatives maintained that there had been, in fact, a change in the scope of the work, and that because of the change the Aerospace Corporation was the only organization qualified to perform. However, they also advised that the pertinent circumstances involved were so highly classified that disclosure of the supporting documentation would not be made. Nevertheless, on January 15, 1973, our General Counsel was orally briefed on the pertinent circumstances by representatives of the Navy and the Air Force.

The highly classified information provided orally and information in the record require us to conclude that the award to Aerospace was justified.

B-177592

Accordingly, your protest is denied.

Sincerely yours,

(SIGNED) ELMER B. STAATS

Comptroller General  
of the United States