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DECISION



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

FILE: B-194014.3

DATE: May 28, 1982

MATTER OF: Hooper Holmes, Inc.

DIGEST:

Protest alleging failure by the Small Business Administration to justify extension of sole-source contract for credit and financial reporting services is sustained where agency's only justification for extension is bare assertion that procuring services through competition would have been impracticable.

Hooper Holmes, Inc. protests the Small Business Administration's (SBA) one-year extension of the agency's sole-source contract No. SBA-5619-FA-81 with Equifax, Inc. for credit and financial reporting services.

Hooper contends that even though it had expressed to SBA its interest in providing these services, the agency issued a modification to Equifax' sole-source contract which extended it for another year. Hooper maintains that the agency has not adequately justified its determination that the services should be procured on a sole-source basis. For the reasons that follow, we sustain the protest. We do not recommend that Equifax' contract be terminated for the convenience of the Government, however, since the majority of it has been performed.

The record shows that on September 17, 1981, two weeks before its existing contract was to expire, the incumbent contractor, Equifax, submitted an unsolicited price proposal for the continued provision of the reporting services. In response to the proposal the SBA program office submitted a sole-source justification

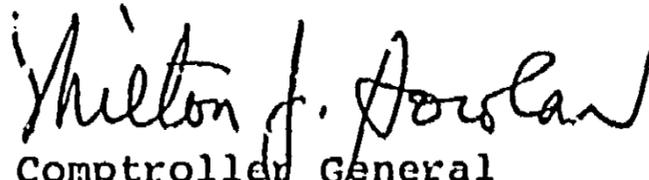
in which it recommended that the contract with Equifax be continued. Thereafter, the contracting officer issued his Determination and Findings (D&F), in which he found Equifax to be the only company capable of fulfilling the SBA's requirement and determined that "the proposed procurement is for services for which it is impracticable to secure competition by formal advertising." After negotiations between the SBA and Equifax, a modification to Equifax' contract was executed providing for an extension of the contract period for one year from October 1, 1981 through September 30, 1982.

Under the provisions of Federal Procurement Regulations (FPR) § 1-2.101(d), procurements must be conducted on a competitive basis to the maximum extent practical. In light of the requirement for maximum practical competition, an agency's decision to procure on a sole-source basis will be subject to close scrutiny and must be supported by adequate legal justification. Kent Watkins & Associates, Inc., B-191078, May 17, 1978, 78-1 CPD 377. As a general rule, a decision to procure on a sole-source basis will not be disturbed by this Office when the agency's determination that its needs to negotiate on a noncompetitive basis is supported by the record. Precision Dynamics Corporation, 54 Comp. Gen. 1114 (1975), 75-1 CPD 402. We will only question such determinations if it is shown that the agency acted unreasonably.

Here, the SBA's sole-source justification is deficient in that rather than providing a justification for seeking to procure the reporting services on a noncompetitive basis, it addresses itself primarily to the advisability of procuring the needed services on a national rather than a regional basis. While we have no reason to challenge the conclusion reached in the justification--that the procurement of the credit reporting services on a national basis would be more cost effective--we find no support for the conclusion that these services can be obtained only from Equifax. We also find unpersuasive as a justification for a sole-source procurement another factor relied upon by SBA: that the incumbent was familiar with the agency's needs, while contracting with another firm would require some assistance from agency personnel during a phase-in period and might require some revision of the agency's standard operating procedures. See Systems Group Associates, Inc., B-195392, January 17, 1980, 80-1 CPD 56; Kent Watkins & Associates, supra.

Hooper states that on a number of occasions it had made known to the SBA its interest in providing these services. The SBA neither disputes this assertion nor does it come forward with any explanation as to why the services provided by Equifax are unique to that firm and cannot be procured on a competitive basis. In addition, the SBA does not indicate that there were any attempts made to ascertain whether it would have been feasible to procure the needed services competitively. It does conclude its report to our Office, however, with the advice that "the program office has been informed that all efforts should be made to handle future service on a competitive basis." On this record, we find that the procurement of these services on a sole-source basis cannot be justified. Accordingly, the protest is sustained.

Since there is only a short time remaining on the SBA's contract with Equifax we are not recommending that it be terminated. However, we have informed the Administrator of the SBA of our expectation that future procurements of credit and financial reporting services should be made on a competitive basis.

for 
Comptroller General
of the United States