



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

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B-178584

August 29, 1973

Heliparts, Inc.
964 Crescent Avenue
Bridgeport, Connecticut 06607

Attention: Mr. H. F. Harrington, Jr.
President

Gentlemen:

This is in response to your letter of June 29, 1973, and prior correspondence, protesting against the issuance of delivery orders Nos. 0240, 0260 and 0287 on a sole-source basis to Sikorsky Aircraft Division, United Aircraft Corporation (Sikorsky), under basic ordering agreement N00383-73-A-9008 by the Navy Aviation Supply Office (ASO), Philadelphia, Pennsylvania.

Orders 0240 and 0260 were issued on March 9, 1973, for 24 autopilot controller units and 46 damper assemblies, respectively. Order 0287 was issued on March 30, 1973, for 191 trunnion assemblies. In each instance, the determination and findings cited as authority to negotiate the contract 10 U.S.C. 2304(a)(10), implemented by paragraph 3-210.2(xv) of the Armed Services Procurement Regulation (ASPR). The cited ASPR paragraph provides for negotiation where the procurement is for replacement parts and adequate specifications are not available.

You earlier protested to ASO against the issuance of each of these orders on the basis that you are a qualified source for the supply of the parts and thus should have been given an opportunity to compete. Specifically, you pointed out that you had been approved by the Air Force as a qualified source for the autopilot controllers in November 1972, and that you are currently supplying damper assemblies and trunnion assemblies to the Coast Guard. By letter of April 26, 1973, ASO denied your protest, stating in pertinent part:

"The items being procured on these three orders are considered to be critical to the proper operation of the aircraft involved. The Aviation Supply Office is currently researching all available data in order to determine whether your company can be solicited in the future. However, the status of current Navy assets and

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known exigencies preclude our terminating the existing orders with Sikorsky Aircraft pending the outcome of this research.

"If, however, as a result of this aforementioned technical research, the items in question are deemed procurable from your company, then solicitations will be sent to you on future procurements."

In response to your protest to our Office, the contracting officer has stated that the Air Force was contacted concerning its approval of your autopilot controllers. The Air Force replied that it had conducted first article tests which established the acceptability of your autopilot controller under the particular contract involved. Moreover, it is reported that these were "continuity" tests, which merely determine if the unit is operable. In view of the lack of environmental or reliability test data, ASO by letter of June 6, 1973, advised you that it would be necessary to obtain from you a complete data package and test data so that a determination can be made as to the adequacy of such data and whether further testing will be required.

ASO also contacted the Coast Guard concerning your damper and trunnion assemblies and was informed that in lieu of qualification testing, Coast Guard personnel had visited your plant and conducted "functional" testing on sample units. The contracting officer states that, like "continuity" tests, functional tests are merely tests to determine if the items are operable. In view of advice from the Naval Air Systems Command (NAVAIR) that these items are considered critical parts, ASO again determined that complete data would have to be obtained from you and, if found to be acceptable, a testing procedure would be established to qualify your units.

In your letter of June 29, 1973, commenting upon the departmental report, you question the amount of time which ASO has taken to initiate action to determine if you are a qualified source, pointing out that your original request for source approval on the damper assembly was made August 21, 1972. You state that ASO should accept the results of the Air Force first article testing of the autopilot controller, and you point out that the Coast Guard has expressed no dissatisfaction with your damper and trunnion assemblies. You also question why approval of sources of "dynamic components," which include the damper and trunnion assemblies, should be vested in NAVAIR rather than ASO.

Our Office has held that the establishment of procedures to qualify a source to manufacture a part to another manufacturer's specification,

as in the present case, is within the ambit of the expertise of the cognizant technical activity. In such situations, the activity is charged with the responsibility of determining the amount of testing necessary to assure that a potential new supplier can produce an acceptable unit. B-176256, November 30, 1972; B-172901, B-173039, B-173087, October 14, 1971. We have emphasized that the question of approval of a manufacturer as an additional source for a component pertains to the capability of the manufacturer to produce the part, not the approval of the part per se. B-174517, May 24, 1972. In the above-cited decisions we pointed out that since our Office is not equipped to consider the technical sufficiency of such engineering determinations, we will not substitute our judgment for that of the technical activity.

It seems clear that the Air Force first article testing and the limited qualification testing conducted by the Coast Guard were of a different quality and kind than the testing which ASO and NAVAIR believe is necessary to establish your concern as a qualified source of these parts. In view of our decisions cited above, we see no grounds to question this determination, or the procedure which provides for approval of dynamic components by NAVAIR, the requiring activity. While the delay which you have experienced in obtaining consideration as a qualified source is regrettable, since it appears that ASO has, as of June 6, 1973, initiated the process necessary to reach a resolution of this matter (and as we assume that this process is proceeding at this time), if your contentions as to your firm's qualifications are borne out, future procurements of this type will be conducted on a competitive basis.

Accordingly, since the actions taken by ASO and NAVAIR in connection with your request for approval as a qualified source for these parts afford no basis for a legal objection to the issuance of the purchase orders to Sikorsky, your protest is denied.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States