

development contract, in which the paramount goal is to obtain a product which will meet field requirements. This fact is recognized in the Armed Services Procurement Act, 10 U.S.C., Sec 2304(a) (11), and also in ASPR 4-106.4 and 4-106.5, which make clear that in research and development contracts estimates of cost seldom can be the controlling factor. Custom's proposal simply was not up to the standard required, and the Army would have been wasting money and imperiling the entire development program to award the contract to a company offering so little prospect of success.

"Other questions concerning Custom's efforts to obtain the contract were thoroughly considered by the Comptroller General, who set out in detail the efforts of Custom to interest the Army in its product. See Ms. Comp. Gen. B-160809, 29 June 1967. While the Army was ready to give Custom every consideration, that hardly can be regarded as a solicitation. The fact the contract was awarded one working day before the date once estimated as the approximate time of award was of no consequence, and Custom was promptly notified. The Army did not use or disclose any of Custom's proprietary data, and the Comptroller General concluded that there was 'no substantial basis' for such an allegation.

"The other question you raised concerned several aspects of the development and procurement of the AN/PRC-25 and AN/PRC-77 portable field radios. I shall discuss briefly the principal points which you mentioned.

"First, you suggest that the Army paid too much—\$951 per unit—for the 4158 PRC-25 radios purchased for the Marine Corps from RCA by contract of 13 August 1965. That contract was awarded by competitive negotiation to meet an urgent requirement from Southeast Asia for 13,158 PRC-25s. Military necessity required delivery of the entire amount by 30 June 1966, 10 months thence. Only two companies—RCA and Memcor—were in production and could meet that deadline. The Army awarded a contract for 9,000 to Memcor, the lowest-price proposer, which represented that company's total capability to meet the deadline. The remaining quantity, 4158, was awarded to RCA at a unit price of \$881.00 not \$951. This price understandably was higher than the \$625 previously bid by RCA on an earlier buy because the quantity was less (4158 instead of 7278), the production leadtime was less (4 months instead of 12) and Government-furnished equipment was less (\$3 per unit instead of \$53).

"Second, you expressed concern over the necessity of contracting sole-source for production of the PRC-77 on 28 April 1967. RCA's first production contract called for delivery of a running set of drawings (those used for the initial production run) on 31 March 1967, the date of delivery of the first PRC-77. The initial running set was delivered on 3 May 1967, only 33 days after the originally specified delivery date. This delay resulted from changes in Army operational criteria imposed by new requirements for related communication equipment which were not furnished RCA until February 1967, eight months after contract award. Unavoidable delay by the Army in developing interface data for the related communications security equipment also necessitated a rollback in production deliveries. After negotiations, deliveries were rescheduled to begin in August 1967, five months after the original contract schedule. The contract was modified accordingly. Satisfactory updated production drawings reflecting the communications security interface data were submitted on 6 September 1967. Thus delay in delivery of drawings was attributable to modification in Army requirements, not to RCA. The delay was necessary in order to assure proper characteristics of the production model.

"It is regrettable that military urgency sometimes requires us to begin and to increase production of vital equipment before the widest competition can be obtained. Yet the military requirement was real, was formalized in a memorandum signed by Mr. Vance, then Deputy Secretary of Defense, and could not be ignored. All such requirements are examined carefully to substantiate the urgency of the need. But once the need of our men in the field is clear, the Army always will choose to act at once and save lives, rather than delay in the hope of saving dollars.

"Third, you discussed the PRC-77 contracting officer's rejection of a letter offer by Decitron Electronics Corporation of Brooklyn, New York, to produce the PRC-77 at a unit price of \$893.75, or \$43.41 per unit less than the price in the contract awarded RCA.

"Decitron's unsolicited letter was not an acceptable proposal. It merely named a price and requested information on the product to be built. The company had