

UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

WASHINGTON, DC

DECISION AND ORDER

FAA Order

Number: ODR-96-8

Matter: Protest Against Award of Letter Contract No. DTFA01-96-C-00025

to Hughes Aircraft Company

Docket: 96-ODR-0001

Date Served: October 9, 1996

DECISION AND ORDER

Wilcox Electric, Inc. (Wilcox) filed a protest on May 28, 1996, challenging the decision of the Federal Aviation Administration (FAA) to award a contract to Hughes Aircraft Company (Hughes). Hughes, Rockwell International, and Lockheed Martin Federal Systems participated in the protest as *interested parties*.

Wilcox contends that the FAA violated its Acquisition Management System (AMS) by failing to engage in communications with Hughes before award, by failing to make a proper public announcement of the decision to conduct a single-source procurement, and by failing to perform a proper market analysis before awarding a single source contract to Hughes. Wilcox also claims that the FAA's decision to award a single-source contract to Hughes lacks a rational basis.

Judge Martha DeGraff, of the General Services Administration Board of Contract Appeals (GSBCA), was appointed by the Acting Director of Office of Dispute Resolution for Acquisition (ODR) to serve as a Special Master in this protest. Judge DeGraff is an impartial third party in this matter. Her task was to further develop the facts in this case, and to provide a recommendation concerning resolution of the protest.

Judge DeGraff was asked to review the record developed incident to this protest and determine whether the award to Hughes was rationally based, and neither arbitrary, capricious, or an abuse of discretion. She concluded that the FAA's decision to award a single-source contract to Hughes had a rational basis, and recommended that this protest be denied. She summarized her determination as follows:

The FAA rationally decided that its best interests demanded that it take action in order to salvage the WAAS contract's schedule and budget, and action by the FAA was necessary and important to support the FAA's mission. The FAA considered all of the relevant factors and made no clear error of judgment in reaching its conclusion.

I have reviewed the report and recommendation of Judge DeGraff, and discussed this matter with the ODR. It is my conclusion that the FAA complied with the AMS and all applicable provisions of law in making the award to Hughes.

The recommendation of the Special Master (attached) shall be adopted as the final agency decision in this protest. For the reasons set out in that recommendation and this Order, and pursuant to section 3.9 of the FAA Acquisition Management System, this protest is denied.

This is the final agency order in this matter. To the extent that this decision is subject to review, such review shall be sought in accordance with 49 U.S.C. §46110. A petition for review must be filed with the United States Court of Appeals for the District of Columbia Circuit, or in the court of appeals of the United States for the circuit in which the petitioner resides or has its principal place of business. The petition must be filed not later than 60 days after the date that this order is issued.

_____/S/_____

DAVID R. HINSON, ADMINISTRATOR

Issued this *9th* day of October, 1996