



# Contractor Wants Air Force In-Sourcing Blocked

By Nick Brown

Law360, New York (November 30, 2010) -- A small contractor whose bid protest over a U.S. Air Force services contract was shut down Nov. 24 has taken the matter to court, seeking to enjoin the Air Force from moving its vehicle maintenance work in-house rather than renew an existing contract.

Triad Logistics Services Corp. moved for a preliminary injunction Monday in the U.S. Court of Federal Claims, the same day it filed suit claiming the Air Force used an arbitrary and capricious cost analysis to justify the switch.

The three-count complaint seeks a declaratory judgment that the process was an abuse of discretion, permanent injunctive relief barring the switch and attorneys' fees.

The Air Force failed to validate the manpower and requirements of the work, as is required for projects in which cost is a factor, according to the complaint, filed by Edward J. Kinberg and R. Brent Blackburn of Kinberg & Associates LLC.

The Air Force also did not make comprehensive "like comparisons" between contractor and government costs, rendering arbitrary and capricious its determination that in-house work would prove cheaper, Triad says.

The plaintiff won the maintenance contract, covering work at the Columbus Air Force Base in Mississippi, for a one-year term beginning in October 2006. The contract included four one-year optional renewals, according to court filings.

Just before the fourth renewal option in June, the Air Force told Triad it would be moving the work in-house.

Triad protested, arguing that an internal Air Force document showing that the department could save 10 percent by moving the work in-house violated 10 U.S.C. §129a. That statute requires the U.S. Secretary of Defense to include a "complete justification for converting from one form of personnel to another," Triad says.

The Air Force's comparison left out a plethora of required data on issues such as indirect costs, analyses on incentives and health benefits, and miscellaneous costs such as transition programs to effect smooth switch-overs from private to in-house contracts, according to the complaint.

The company obtained the comparison through a Freedom of Information Act request, it says.

The GAO denied the protest Nov. 24, saying the allegedly violated statute was merely

"internal agency guidance," rather than binding regulation.

Triad could not be immediately reached for comment Monday.

The Florida-based company bills itself as a Disabled Veteran-Owned Small Business, established by two retired military officers in 2004. It is represented by Kinberg & Associates LLC.

The case is Triad Logistics Services Corp. v. USA, case number 1:10-cv-00815, in the U.S. Court of Federal Claims.