

DECISION



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

60825

FILE: B-185699

DATE: April 30, 1976

MATTER OF: Aerosonic Corp

98997

DIGEST:

Since protested procurement effected under section 22(a) of Foreign Military Sales Act will not involve contract payments from appropriated funds, matter is not subject to settlement by GAO and is dismissed.

Aerosonic Corporation has protested the award of a contract under RFP F33657-76-R-0278 issued by the United States Air Force Systems Command. Aerosonic contends that this procurement of airspeed indicators is being awarded to Bendix Corporation on a non-competitive basis which is inconsistent with earlier statements by Air Force officials to the effect that competition would be sought.

The Air Force advises that all of the items being procured under this solicitation are "foreign military sales requirements". We are advised that contract payments are made by direct charge against the Foreign Military Sales Trust Fund and sufficient funds will be made available in advance by the countries concerned.

We have held that procurements effected under section 22(a) of the Foreign Military Sales Act (22 U.S.C. 2762 (a) (Supp. III, 1973)) would not involve the use of appropriated funds and we therefore could not render an authoritative decision in such matters. Tele-Dynamics, B-183670, January 29, 1976 (55 Comp. Gen. ___), 76-1 CPD 60.

Since it appears that an award of a contract for the airspeed indicators to Bendix would be effected pursuant to the authority in the above cited statute and would not involve payments from appropriated funds, no useful purpose would be served by our consideration of this matter. Accordingly, the protest is dismissed.

A handwritten signature in cursive script, reading "Paul G. Dembling".
Paul G. Dembling
General Counsel