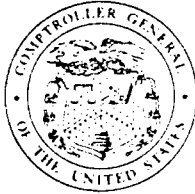


DECISION



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

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FILE: B-183776

DATE: February 13, 1976

MATTER OF: Telemedia, Inc.

DIGEST:

Procurement under Foreign Military Sales Act, 22 U.S.C. 2762(a) does not involve charge to appropriation account subject to settlement by GAO. Therefore, protest involving such procurement is dismissed since GAO could not require remedial action even if agency failed to comply with rules generally applicable to Government procurement.

Telemedia, Inc. (Telemedia) protests the award of a contract to the School for International Training (SIT) under request for proposals (RFP) No. DAAG08-75-C-0191, issued February 11, 1975, by the Department of the Army, Sacramento Army Depot. The RFP sought proposals to conduct an English language training program for the Imperial Iranian Navy. Telemedia's protest is based on several grounds relating to the conduct of the negotiations and the award of the contract to SIT.

The language services were procured by the Army on behalf of the Imperial Iranian Navy under the authority of the Foreign Military Sales Act, as amended, 22 U.S.C. 2762(a) (Supp. III, 1973). The award contained the following clause:

"This contract shall not become effective and binding on the parties unless and until written notification is furnished to the contractor that it has been approved by the Imperial Iranian Navy (IIN) and that funds have been appropriated and obligated for the contract."

Section 2762(a) of title 22 United States Code provides:


"(a) Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign

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country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract, and any damages and costs that may accrue from the cancellation of such contracts, in advance of the time such payments, damages, or costs are due."

We recently have been advised that payments made by foreign governments for procurements pursuant to the Foreign Military Sales Act are deposited in a trust fund administered and accounted for by the Navy International Logistics Control Office. The accounting and appropriation data included in the contract award indicates that payments made to the contractor are directly charged against the Iranian trust fund account. No appropriation account of the United States Government is to be charged.

Our bid protest jurisdiction is predicated upon the authority of the General Accounting Office to settle accounts of agencies of the Federal Government. See 4 C.F.R. 20.1(a). We do not render authoritative decisions where only nonappropriated funds are involved. B-171067, March 18, 1971; ACS Construction Company, Inc., B-183034, April 18, 1975, 75-1 CPD 238. Since the procurement in the instant case does not involve a charge to an appropriation account that is subject to settlement by this Office, we could not take any remedial action even if we should find the procurement improper under the rules generally applicable to Government procurements. Accordingly, we must conclude that no useful purpose would be served by our consideration of the matter. Tele-Dynamics, 55 Comp. Gen. ___, B-183670, January 29, 1976, 76-1 CPD ___.


Deputy Comptroller General
of the United States