

DOCUMENT RESUME

02979 - [A2013083]

[Protest to Organization of Sale of Surplus Government Property]. B-188705. July 12, 1977. 2 pp. + enclosure (1 pp.).

Decision re: Kolar, Inc.; Pacific Propeller, Inc.; Sun Valley Aviation; by Paul G. Dembling, General Counsel.

Issue Area: Facilities and Material Management (700).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense - Military (except procurement & contracts) (051).

Organization Concerned: Department of Defense.

Authority: Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484). 52 Comp. Gen. 706. B-184617 (1975). B-188460 (1977). 4 C.F.R. 20.10.

Protest to manner in which sale of surplus Government property was conducted could not be considered by GAO, as the matter was before a court of competent jurisdiction.
(Author/DJM)

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DECISION



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

FILE: B-189705

DATE: July 12, 1977

MATTER OF: Kolar, Inc.; Pacific Propeller, Inc.; Sun Valley Aviation

DIGEST:

Protest of manner in which surplus property sale is conducted will not be considered, since matter is before court of competent jurisdiction.

The Defense Property Disposal Service issued invitation for bids (IFB) 41-7125 for the sale of 69 items of surplus Department of Defense aircraft, all of which were partially dismantled or incomplete. Three different types of aircraft were included in the sale: C-97's, C-121's and C-54's. Some of the aircraft were considered potentially certifiable as airworthy. All or none bids were permitted.

At the bid opening on March 23, 1977, Consolidated Aeronautics Corporation was determined to be the high bidder with a "all or none" bid in the amount of \$369,003. The record shows that Kolar, Inc., bid \$250,000 on an "all or none" basis.

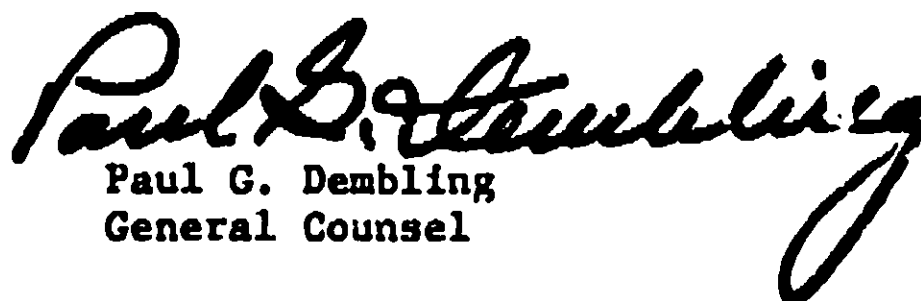
Protests against the IFB were filed with our Office on March 30, 1977, by Kolar, Inc., Pacific Propeller, Inc., and Sun Valley Aviation, contesting the manner in which the sale was organized. We have had no further communication from the latter two protesters despite letters to each of them on May 15, 1977, advising that if they wished us to consider the matter further they had to advise us within 10 working days after the receipt of the letter. Thus, we assume they no longer wish to pursue this matter.

As to Kolar, it alleges that the inclusion of scrap aircraft and potentially certifiable aircraft in the same sale is contrary to the property disposal regulations and the provision of the Federal Property and Administrative Services Act of 1949 pertaining to surplus property disposal. 40 U.S.C. § 484 (1970). However, Kolar has filed a complaint in the United States District Court for the District of Arizona seeking an adjudication on the merits by the court. The complaint has been assigned civil No. 77-124-TUC-WCF by United States District Court in Tucson, Arizona.

B-168705

It has long been the policy of our Office not to decide matters where the material issues involved are before a court of competent jurisdiction unless the court expresses an interest in receiving our views. 52 Comp. Gen. 706 (1973); Grumman Ecosystems, Corporation, B-184617, October 24, 1975, 75-2 CPD 252; Elevator Sales and Service, Inc., B-188460, April 14, 1977, 77-1 CPD 259; 4 C.F.R. § 20.10 (1977).

Accordingly, we will take no further action on the matter.


Paul G. Dembling
General Counsel



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

IN REPLY
REFER TO:

B-188705

JUN 19 1977

The Honorable Dennis DeConcini
United States Senate

Dear Senator DeConcini:

We refer to your interest in the protest of Kolar, Inc., under invitation for bids (IFB) 41-7125 issued by the Defense Property Disposal Service for the sale of surplus aircraft.

Kolar, Inc., filed a complaint on June 17, 1977, in the United States District Court for the District of Arizona seeking an adjudication on the merits by the court.

Enclosed is a copy of our decision of today advising that we will take no further action on the matter since it is before a court of competent jurisdiction.

Sincerely yours,

Paul G. Dembling

Paul G. Dembling
General Counsel

Enclosure