

DOCUMENT RESUME

02379 - [A1472496]

[Preaward Survey Findings]. B-188821. May 23, 1977. 1 pp.

Decision re: Astrodyne, Inc.; by Paul G. Deubling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).

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

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of the Navy: Aviation Supply Office, Philadelphia, PA.

Authority: Walsh-Healey Act. Administrative Procedures Act. B-173808 (1973). B-181091 (1974). B-185422 (1976).

The protester objected to a preaward survey finding that it did not qualify as a manufacturer. The question as to the qualification of a bidder as a manufacturer or regular dealer under the Walsh-Healey Act was not for consideration since jurisdiction in this matter rests with the contracting officer, subject to final review by the Department of Labor. (Author/SC)

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DECISION



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

FILE: B-188821

DATE: May 23, 1977

MATTER OF: Astrodyne, Inc.

DIGEST:

Question as to qualification of bidder as manufacturer or regular dealer under Walsh-Healey Act is not for consideration since jurisdiction rests not with GAO but with contracting officer subject to final review by Department of Labor.

Astrodyne, Inc., protests the proaward survey findings under Navy Aviation Supply Office invitation for bids No. N00383-77-B-0168 that it does not qualify as a manufacturer under the Walsh-Healey Act and consequently that it may not receive a contract award under that invitation. It is contended that the requirements of the act were applied to it in a discriminatory manner. It is further contended that in reaching the contested findings Department of the Labor-promulgated criteria were used which are contrary to the letter of the Administrative Procedures Act, the Code of Federal Regulations, and the Armed Services Procurement Regulation.

Numerous decisions of our Office have recognized that the responsibility for applying the criteria of the Walsh-Healey Act is vested in the contracting officer subject to final review by the Department of Labor. Our Office is not authorized to review determinations as to whether particular firms are regular dealers or manufacturers within the purview of the act, and we have declined jurisdiction in this area for the above reason. B-173808, October 26, 1971; Arista Co., B-181091, July 10, 1974, 74-2 CPD 20; Case, Inc.; Bethune Quilting Company, B-185422, January 29, 1976, 76-1 CPD 63.

Accordingly, the issue is not properly for consideration by our Office.

Paul G. Dembling
Paul G. Dembling
General Counsel