

DECISION



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

60185

FILE: B-184989

DATE: November 18, 1975

MATTER OF: Square Deal Trucking Co., Inc.

97713

DIGEST:

Protest of contract award by Washington Metropolitan Area Transit Authority will not be considered since its accounts are not subject to settlement by the General Accounting Office.

The Square Deal Trucking Co., Inc. (Square Deal) has protested the award of a contract for trash removal by the Washington Metropolitan Area Transit Authority (WMATA) to any bidder other than Square Deal.

For the reasons stated below, we must decline to consider bid protests relative to WMATA operations.

Our bid protest jurisdiction is based on our authority to adjust and settle accounts and to certify balances in the accounts of accountable officers. 31 U.S.C. 71, 74 (1970) and Section 20.1(a) Bid Protest Procedures, 40 Fed. Reg. 17979 (1975). Under § 70(b) of the Washington Metropolitan Area Transit Authority Compact, Pub. L. No. 89-774 (November 6, 1966), the Comptroller General is authorized to audit financial transactions of the Board of Directors of WMATA. The legislative history of the Compact indicates that the Comptroller General is to have the same audit authority with respect to WMATA as it has with respect to Government corporations listed in 31 U.S.C. §§ 846 and 856 (1970). In this regard, Senate Report 1491, 89th Cong., 2d Sess. (1966), states that this section:

"* * * grants the General Accounting Office substantially the same audit powers with respect to the Authority that it has with respect to Federal corporations." S. Rep. No. 1491, 89th Cong., 2d Sess. 2 (1966).

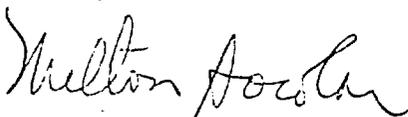
To the same effect is House Report No. 1914, 89th Cong., 2d Sess. (1966):

"* * * grants the General Accounting Office the same audit powers in carrying out the audit function specified in section 70(b) of the compact with respect to the books of the Authority as it has with respect to Federal corporations (31 U.S.C. 850 and 857)." H.R. Rep. No. 1914, 89th Cong., 2d Sess. 21 (1966).

In addition, WMATA was empowered under the Compact to enter into contracts and to exercise, subject to limitations imposed, all powers reasonably necessary to its purposes including authority to sue and be sued. Pub. L. 89-774, § 12 (November 6, 1966).

The responsibility of this Office under the Government Corporation Control Act is limited to performing an audit in accordance with the principles and procedures applicable to commercial transactions (31 U.S.C. § 850 (1970)). Frank E. Melchiorre, B-181961, B-182280, November 26, 1974, 74-2 CPD 293 and 53 Comp. Gen. § 337 (1973). In our opinion, when Congress consents to the establishment of an instrumentality such as WMATA, which can engage in commercial and business transactions and can "sue and be sued", it cannot be presumed that restrictions on its authority are to be implied. Federal Housing Administration v. Burr, 309 U.S. 242 (1940) and B-177140, September 12, 1973.

Accordingly, we conclude that we have no settlement authority over the accounts of WMATA. We, therefore, must decline to consider bid protests relative to WMATA operations. We are closing our file on this matter without further action.

for 
Paul G. Dembling
General Counsel