

DECISION



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

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FILE: B-185431

DATE: January 14, 1976

MATTER OF: National Small Business Association

DIGEST:

GAO is precluded from rendering decision on protest filed against procurement conducted on behalf of activity with use of nonappropriated funds since bid protest jurisdiction is based on account settlement authority under 31 U.S.C. §§ 71 and 74 (1970). Although General Accounting Office Act of 1974 provides GAO with audit authority over certain nonappropriated fund activities, it does not provide for requisite account settlement authority over nonappropriated fund activities.

The National Small Business Association has protested on behalf of its members the use of a provision which states "Any proposal received from an offeror who has failed to attend the pre-proposal conference will be considered non-responsive and will be rejected," under request for proposals (RFP) No. DAHC02-76-R-0611, issued by the Department of the Army, United States Military Academy, West Point, New York.

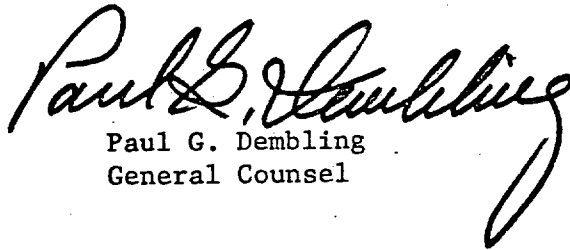
We have been informed that the procurement does not involve the expenditure of appropriated funds. With respect to our consideration of protests involving nonappropriated funds, we stated in ACS Construction Company, Inc., B-183034, April 18, 1975, 75-1 CPD 238, as follows:

"* * * We have previously held that this Office is without authority to render * * * decisions with respect to procurements conducted by or on behalf of nonappropriated fund activities. B-181469, July 9, 1974; B-179854, October 29, 1973; B-178786, July 16, 1973; B-171417, December 17, 1970. Although recently this Office was authorized to review and audit the operations and funds of certain nonappropriated fund activities, see section 301 of the General Accounting Office Act of 1974, Public Law 93-604, approved January 2, 1975, our bid protest jurisdiction is based on

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our authority to adjust and settle accounts and to certify balances in the accounts of accountable officers under 31 U.S.C. 71, 74 (1970). Wheelabrator Corp. v. Chafee, 455 F. 2d 1306, 1313 (D.C. Cir. 1971); 46 Comp. Gen. 441 (1966); B-167782, January 21, 1970. Where we do not have such settlement authority, we have declined to consider protests * * *"

Since we do not have settlement authority over nonappropriated fund activities, this Office is unable to render a decision on the protest.


Paul G. Dembling
General Counsel