



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20546

OFFICE OF GENERAL COUNSEL

B-222188.3

May 19, 1986

Modern Sanitation Systems, Inc.  
P.O. Box 2066  
626 Central Avenue, Suite #4  
East Orange, New Jersey 07018

Attention: Sergio Benvenuto, Sr., President

Gentlemen:

This responds to your May 8, 1986 letter to our Office in connection with your bid protest of the award of a contract to Right-Way under Department of the Army solicitation No. DAAB08-86-B-J005.

Your protest, filed on April 16, was that Modern Sanitation Systems, Inc., the low bidder in the procurement, improperly was found nonresponsive. The Army responded in a May 5 letter that the matter had been referred to the Small Business Administration (SBA) under the certificate of competency procedures, and that if a certificate is issued, Right-Way's contract will be terminated and award made to your firm.

Based on the Army's response to your protest, we closed our file on the matter and so advised you in a letter of May 6 which, apparently, you had not received when you sent your May 8 letter. The reason we did so is that the SBA has conclusive jurisdiction in the area, so that our Office generally will not review a contracting officer's referral of a nonresponsibility determination to the SBA or that agency's issuance or refusal to issue a certificate of competency.

If you need any further information, my telephone number is (202) 275-5532.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. Strong", written over the typed name.

Robert M. Strong  
Deputy Associate  
General Counsel